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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 12-12020-mg

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In the Matter of:

RESIDENTIAL CAPITAL, LLC, et al.,

Debtors.

- - - - -x

United States Bankruptcy Court

One Bowling Green

New York, New York

March 24, 2016

9:20 AM

B E F O R E:

HON. MARTIN GLENN

U.S. BANKRUPTCY JUDGE

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Doc # 9226 Trial Regarding The ResCap Liquidating Trust's and
ResCap Borrower Claims Trust's Objection to Claim No.s 112,
114, 416, and 417 Filed by Erlinda Abibas Aniel, Fermin Solis
Aniel, and Marc Jason Aniel.

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1 P R O C E E D I N G S

2 THE COURT: All right. The Court is back in session.
3 We're here in connection with the trial of the contested matter
4 of the ResCap Borrower Claims Trust's objection to claims of
5 Erlinda Abibas Aniel, Fermin Solis Aniel, and Marc Jason Aniel.

6 The Court entered the pre-trial conference or joint
7 pre-trial order on February 25th, 2016. A little further
8 background: on June 30, 2015, the Court entered a written
9 opinion -- memorandum opinion and order sustaining, in part,
10 and overruling, in part, the ResCap Liquidating Trust and
11 ResCap Borrower Claims Trust objections to claims numbers 112,
12 114, 416 and 417, filed by the Aniels.

13 That opinion sustained the Trust's objections to most
14 of the Aniel's claims and overruled the objection, in part, to
15 certain of the Aniel claims for wrongful foreclosure, whether
16 the debtors had the power to foreclose under the Aniel deed of
17 trust, and with respect to -- also as to set aside a trustee
18 sale; there doesn't appear to have been a sale that's occurred,
19 and also as to certain portions of a fraudulent concealment
20 claim.

21 As that opinion set out, the only factual issue that
22 remained in dispute was the allegation that Mira Smoot had no
23 authority to execute the 2011 Aniel assignment and that
24 therefore the debtors lacked authority to foreclose on the
25 Aniel property. The remaining claims all revolve around

1 whether Mira Smoot had authority to execute the assignment.

2 In the joint pre-trial order which the Court entered,
3 on page 16 of the pre-trial order, four issues were identified
4 to be tried. Those are the only issues. And the parties
5 agreed in the joint pre-trial order that those are the only
6 issues that are to be tried. And those are clearly the only
7 issues that survived the Court's prior opinion.

8 In the joint pre-trial order, at pages 2 through 12,
9 Aniel sets forth the claimant's description of the nature of
10 the case, most of which is absolutely irrelevant to what's
11 going to be tried today. In the claimant's contentions, on
12 page 13 through the very top of page 15, most of those
13 contentions are irrelevant to the issues that are going to be
14 tried today. Many of the exhibits listed by the claimant in
15 the joint pre-trial order are irrelevant to the issues that are
16 going to be tried today.

17 The Court has reviewed the declaration, under penalty
18 of perjury, as the direct testimony of Erlinda Abibas Aniel.
19 It was filed on March 9th, 2016, thirteen pages in length.
20 Most of the alleged facts contained in that declaration are
21 irrelevant to the issues that are going to be tried. The
22 issues left open by the Court's prior decision are narrow; that
23 is what the Court is going to hear evidence about today. I'm
24 making that clear before we start so that neither side can be
25 surprised.

RESIDENTIAL CAPITAL, LLC, et al.

6

1 Ms. Aniel, you can make an opening statement if you
2 wish. Yes, please?

3 MS. ANIEL: Good morning, Your Honor and everyone
4 here. Thank you very much for coming here in New York, and
5 it's a very nice city and very friendly. My second time to
6 come here; I was here in July, I think, 11, when I got the
7 subpoena for the witnesses. And do you want me to do my
8 opening?

9 THE COURT: Yes, you can do your opening now.

10 MS. ANIEL: Oh, okay.

11 THE COURT: Okay?

12 MS. ANIEL: I already said good morning, Judge, again,
13 and so also to the other parties. I stand before you in
14 connection with the claims against GMAC Mortgage and ETS that I
15 filed in bankruptcy petition by Residential Capital, LLC and
16 the ResCap Borrower Trust, docketed as case number 12-12020,
17 wherein I, as a claimant, filed a proof of claim that
18 petitioner in said bankruptcy case owed me some amount of money
19 in the form of damages on several causes of action including
20 wrongful foreclosure, fraudulent concealment, declaratory
21 relief, violation of UCL, and trustee sale.

22 To be brief about it, Honorable Court, the Borrower
23 Claims Trust, the ResCap Trust to serve as trustee for the work
24 was attending to and facilitating payment of claims of
25 claimants that they believe had been established, and objecting

1 to those claims that they believe is contestable.

2 When my claims were considered by them, they presented
3 their objection to my claims for a reason already made on the
4 record. This Honorable Court, acting on this objection,
5 sustained several of these objection but overruled its
6 objection against my claim of wrongful foreclosure, fraudulent
7 concealment, declaratory relief, as I mentioned a while ago,
8 claims of wrongful foreclosure, for the very reason that it
9 failed to substantiate its factual allegation in respect to the
10 authority of Mira Smoot to accept the 2011 assignment of the
11 deed of trust.

12 This is now the very issue that should be resolved in
13 this trial. As you may know, burden of proof as to the issue
14 of whether Ms. Smoot is sufficiently authorized to execute the
15 2011 assignment fall on the objector, as the Rule of Evidence
16 provides. Nonetheless, since I am the claimant, I took upon
17 myself to prove to the Honorable Court, by preponderance of
18 evidence, that Ms. Smoot has never been authorized to execute
19 the 2011 assignment, and if ever such document exists, the same
20 is a void document that confers no right to impose no
21 obligation. And allow me, Your Honorable Judge Glenn, to
22 explain my point and argument as follows.

23 Preliminarily, I'm saying that without admitting any
24 truth about it, that objector reason for denying my proof of
25 claim is based on its assumption that my loan and deed of trust

1 is part of the pool loans covered by the pooling and servicing
2 agreement which was transferred to the securitized trust on or
3 before the cutoff date of July 1st, 2007 as the PSA mandated,
4 pooling agreement mandated. In the mortgage loan that included
5 mine shall be put forth with all similar mortgages loan and
6 transferred to the Trust on or before July 1st, 2007. But as
7 my evidence will later establish, there is no available black-
8 and-white document or records that shows this facts that is
9 that my loan was included in the pool loans and transferred to
10 the Trust on or before July 1st, 2007, per the PSA. It is just
11 an assumption not supported by any evidence of records.

12 Similarly, my evidence will show that contrary to the
13 supposition made by objector that my loan was included in the
14 pooled loans and transferred to the Trust on or before July
15 1st, 2007, per the pooling and servicing agreement, my said
16 loan was still under the name of MERS, as beneficiary of
17 mortgage in 2008, as evidenced by documents, per substitution
18 of trustee, dated August 28, 2008.

19 Why did I say that this document contradict the theory
20 of objector? It is very clear from this document that, as of
21 2008, my loan is not transferred to the trustee HSBC because if
22 it were so, then the assign on said 2008 document should have
23 been HSBC and not MERS, as said document reflects.

24 One more thing. As my evidence will later show, no
25 document mentioned that HSBC is the trustee of my loan, except

1 under the 2009 assignment of the deed of trust dated September
2 21, 2009, the validity of which I am not admitting at this
3 point because I will show later its invalidity by reason of its
4 defective notary acknowledgment. Wherein MERS, as a signer on
5 face of said document, presumably dated all its beneficiary
6 interests to HSBC in said deed of trust. Therefore, this
7 evidence likewise contradict the very position taken by
8 objector that as of 2007 my loan was already owned by HSBC as
9 trustee.

10 Now, why did I say that? The 2009 assignment is void,
11 as I hinted earlier, and perhaps this may be the reason why
12 objector attempted to correct such defect of invalidity in a
13 later document that I will discuss later. The notary of
14 management is defective since a mere reading of the notary
15 acknowledgment shows that the notary public committed a
16 criminal act because she notarized a document prepared in
17 California when she is a notary public having jurisdiction in
18 the State of Pennsylvania. Simply stated, the notary public
19 committed a very basic no when she notarized a document outside
20 of her notarial jurisdiction. Now, what is the effect of this?
21 This patent defect makes said 2009 assignment void that if
22 confers no right and imposes no implication. This means that
23 the said document is nothing.

24 Let me go forward. Since this 2009 assignment that
25 mentioned HSBC for the first time is void, there is no black-

1 and-white document that will support the theory as far as my
2 objector has earlier mentioned that HSBC owned my loan as early
3 as July 1st 2007. Neither did it own it in 2008 and 2009. And
4 how about in 2010? There is, again, a dearth of any record
5 that would support the view that my loan was owned by HSBC in
6 that year.

7 How about the following year, in 2011? There is a
8 document extant to the record that the deed of assignment was
9 executed by Ms. Smoot, presumably on behalf of HSBC, whereas
10 HSBC, through her, as its authorized officer, allegedly
11 assigned, for value received, meaning there is a money
12 consideration, all beneficial interest to GMAC Mortgage, LLC,
13 formerly known as GMAC Mortgage Corporation. This is now the
14 very document that is the subject of the trial. The 2011
15 assignment specifically for the purpose of determining whether
16 Ms. Smoot is armed with sufficient authority to execute it. I
17 answer this question. No, she is not authorized, and I am ever
18 asserting the fact now that HSBC has no right to execute said
19 document as there is no evidence whatsoever that as of 2011 it
20 is or become the owner of my loan.

21 As my evidence will and has established, the 2009
22 assignment is void by reason of defective material
23 acknowledgment. Therefore, HSBC did not become the owner of my
24 loan by virtue of said assignment. For that reason, and since
25 it's not the owner of my loan in 2009, it has no right to make

1 an assignment in 2011 in favor of GMAC. And you have to
2 remember that Mira Smoot is also an employee of GMAC, and
3 there's a conflict of interest in that, Your Honor.

4 Now the issue as to the authority of Ms. Smoot is that
5 it's mooted. That is because her principal, HSBC, is not
6 empowered to assign my loan to GMAC. Therefore she is likewise
7 not empowered as to the 2011 assignment. As the saying goes, a
8 stream cannot rise above its source. Since Ms. Smoot's
9 authority is based on the assumption that HSBC is the owner of
10 my loan, and the evidence shows the negative, then by all means
11 it is presumed that Ms. Smoot has no authority to execute the
12 2011 assignment of the deed since she derived, obviously, her
13 authority from HSBC which is not even allowed to execute the
14 2011 assignment of the deed.

15 Finally, my evidence would establish that HSBC is
16 aware of the legal implication of the void document in 2009
17 assignment, had attempted to execute a corrected deed of
18 assignment in 2015 by virtue of document misleading start
19 corporate assignment of the deed of trust apparently signed by
20 one Rebecca Domb (ph.) and authorized before a notary public
21 who admittedly properly notarized it not the proper entity for
22 the purpose of expressly correcting the 2009 assignment of the
23 deed.

24 My question is this: did this execution resurrect the
25 2009 assignment, which is proven to be void? Of course not.

1 You cannot correct a void document by the later execution of
2 another document. It is my honest feeling that it could not
3 validly confer to HSBC what it lacks in 2009, the ownership of
4 my loan. And because my note and my deed of trust was
5 securitized, it became separated from each other. GMAC put --
6 entered my loan -- original loan number on my deed of trust,
7 and they sold my note to Wells Fargo, who owns my note now,
8 with a loan number -- where is that? I will tell you what's
9 the loan number, Your Honor; it's on there, okay? My note -- I
10 think its end up with 4254 on the Wells Fargo side, okay.
11 Wells Fargo has that note with different note number in 2008,
12 October 2008, when GMAC instigated for me to default on the
13 loan so that I could be -- so that to be approved for the loan
14 modification.

15 So they told me in 2008, August 2008, that I have no
16 hardship; I had to default within ninety days and then call
17 them back. It was the debtor, GMAC, who instigated that in
18 order for me. And the reason why I say that because I talked
19 to the customer service and then all of a sudden I saw on the
20 Wells Fargo remittance that they reported my note defaulted as
21 of October 2008. And I have that as part of my exhibit, and it
22 has already proven, Your Honor, that debtor, after Department
23 of Justice penalized debtor for 200 million for wrongful
24 foreclosure because of those fraudulent documentation that they
25 filed all over the nation, filed in bankruptcy court, in the

1 court of state court, federal court, a document that has been
2 updated, document that has been robo-signed, signing without
3 the knowledge of this document what they're assigning. Until
4 now they have still continuing it. The 2013 limited power of
5 attorney that was filed in the court -- I hope Mr. Brian
6 Monasoto (sic).

7 Are you Brian Monasoto (sic)?

8 THE COURT: No, these are my law clerks.

9 MS. ANIEL: Oh, no. I'm sorry.

10 THE COURT: That's okay.

11 MS. ANIEL: I even called him. I said there was a
12 document that was filed in bankruptcy court 2013 that's
13 supposed -- that they gave to the Court. If you remember that,
14 Your Honor, that I objected because they have attachment saying
15 that my loan was on the trust, which is HSBC as trustee for
16 Deutsche Alt Loan Trust Mortgage 2007-OA -- that's OA -- 2007,
17 that's OA5. And you told the debtor to produce another
18 document to show that Mira Smoot has the authority to sign, and
19 this was -- the document was filed also in 2000 -- the limited
20 power of attorney in 2008, which was signed by Susie Moy,
21 witnessed by Nancy Luong and Doris Wong. And the 2013
22 assignment of limited power of attorney signed by Fernando
23 Acebedo and authorized by Audrey Zabriskie had not
24 really -- Your Honor, was already expired since 2011. So this
25 step -- I'm not the only one victim by the debtor until after

1 their bankruptcy in 2012.

2 THE COURT: May I ask you this? I'm looking at the
3 August 28th, 2008 limited power of attorney that HSBC executed
4 by Ms. Moy, and you said it had expired. I don't see
5 anything --

6 MS. ANIEL: No, in 2013 --

7 THE COURT: No, stop.

8 MS. ANIEL: Okay.

9 THE COURT: I don't see anything in the limited power
10 of attorney that has a date -- an expiration date. Do you
11 understand what I'm asking?

12 MS. ANIEL: Oh, yeah, yes, yes, because yes, when in
13 California, Your Honor, when you have the power of attorney
14 there must be an expiration for that because that is only a
15 limited power of attorney.

16 THE COURT: But this is --

17 MS. ANIEL: But there was none.

18 THE COURT: This is not a California limited power of
19 attorney.

20 MS. ANIEL: I understand that.

21 THE COURT: It's a New York limited power of attorney
22 that was granted. And the issue isn't whether it continues
23 forever; the issue is whether this was in effect when Mira
24 Smoot executed the assignment. But I just -- that's why
25 I'm -- I'm asking because you said it expired. I don't see any

1 expiration date.

2 MS. ANIEL: On my statement there was no expiration on
3 the limited power of attorney in 2008. There was none. So it
4 looks like it's limit -- it says "limited power of attorney".

5 THE COURT: Okay. Go ahead with your argument.

6 MS. ANIEL: Okay.

7 THE COURT: I just --

8 MS. ANIEL: That's the reason why I mentioned that
9 power of attorney by Acebedo, signed and executed by Acebedo is
10 that that is the substituted document that was part, again, the
11 2008. So if they do the 2013 assignment of the -- you know,
12 the power of attorney of 2013, signed by Acebedo, Mr. Acebedo,
13 who might think the 2008 is legitimate, is effective document.
14 That's my question, you know?

15 THE COURT: Okay.

16 MS. ANIEL: And also we have the issue this morning,
17 Your Honor. I talked to the counsel for the debtor, Jessica --

18 THE COURT: Arett, yes.

19 MS. ANIEL: Mr. Wishnew.

20 THE COURT: Yes.

21 MS. ANIEL: Did I say it right?

22 THE COURT: It's okay. Go ahead. I know who you're
23 talking about.

24 MS. ANIEL: And so they asked for the -- I asked for
25 their --

1 THE COURT: You wanted to see originals of some
2 documents?

3 MS. ANIEL: Yes -- yes, Your Honor. And she says that
4 Kathy Priore --

5 THE COURT: Yes.

6 MS. ANIEL: -- forgot it in Pennsylvania. I said you
7 still make -- this is not original. If you could produce an --

8 THE COURT: Well, I ordered them to provide you with
9 the originals, and if they didn't they're going to have to
10 explain to me why they didn't do it.

11 MS. ANIEL: What did you say?

12 THE COURT: I ordered them to provide you with the
13 originals.

14 MS. ANIEL: Exactly.

15 THE COURT: And if they didn't do it they'll have to
16 explain to me why.

17 MS. ANIEL: Okay.

18 THE COURT: I said if they didn't do it they had to
19 have a witness to testify why.

20 MS. ANIEL: Oh, yes.

21 THE COURT: Leaving it behind in Pennsylvania is not a
22 valid excuse.

23 MS. ANIEL: And I told them that, you know, from
24 Pennsylvania -- I was there in Pennsylvania in January, and
25 then I travelled two hours.

1 THE COURT: Yeah.

2 MS. ANIEL: You know? It took only --

3 THE COURT: Well, let's see -- we'll address that when
4 it comes up.

5 MS. ANIEL: Okay. And that's it, Your Honor, and
6 thank you very much for listening --

7 THE COURT: Okay. Thank you very much.

8 MS. ANIEL: -- my opening statement.

9 THE COURT: Okay. I just want to make one other
10 comment. I don't think we should have a time problem. In the
11 pre-trial order, Ms. Aniel, I set a total of ten hours for the
12 trial, five hours today, five hours tomorrow. So my law clerks
13 and I keep track of how much time you use, but I don't think
14 that should be a problem.

15 Mr. Wishnew, do you wish to make an opening statement?

16 MR. WISHNEW: Your Honor, I'll waive an opening
17 statement. I'd like to address one housekeeping matter.
18 And --

19 THE COURT: Yes, go ahead.

20 MR. WISHNEW: Sure. First, Your Honor, with regards
21 to -- it's actually Ms. Aniel's witness, Nancy Luong --

22 THE COURT: Yes.

23 MR. WISHNEW: -- she has an obstetric appointment at 3
24 o'clock --

25 THE COURT: Okay.

1 MR. WISHNEW: -- this afternoon in Tribeca.

2 THE COURT: Okay.

3 MR. WISHNEW: My understanding is she has to leave no
4 later than 2:15.

5 THE COURT: Okay.

6 MR. WISHNEW: I don't want to tell Ms. Aniel how to
7 conduct her case --

8 THE COURT: Yeah.

9 MR. WISHNEW: -- but if we can accommodate Ms.
10 Luong --

11 THE COURT: Yeah.

12 MR. WISHNEW: -- it would certainly be appreciated.

13 THE COURT: That's one of the HSBC --

14 MR. WISHNEW: That's correct, Your Honor.

15 THE COURT: -- witnesses. And I usually try and
16 accommodate scheduling on witnesses, so I hope that's okay with
17 you, Ms. Aniel.

18 MS. ANIEL: Yeah, it's okay for me. I even told --

19 THE COURT: My suggestion --

20 MS. ANIEL: I'm sorry, I --

21 THE COURT: My suggestion is: you subpoenaed HSBC
22 witnesses; if you don't object, I think you should call them as
23 your first witnesses, let's get that out of the way, and then
24 they can be relieved and go back to their jobs or doctor's
25 appointments.

1 MS. ANIEL: Is that okay if I do --

2 THE COURT: Is that okay with you?

3 MS. ANIEL: Yeah, I'm okay with it, but I don't have
4 the original copy of the --

5 THE COURT: Yeah, I want to hear about that.

6 MR. WISHNEW: I'll address that, Your Honor.

7 MS. ANIEL: So tomorrow it is okay for them to --

8 THE COURT: Well --

9 MR. WISHNEW: Your Honor, so there is one original
10 copy; it is in Ms. Smoot's possession. Ms. Smoot had it in her
11 bag this morning. Long story short, her bag broke; she had to
12 switch bags. It was inadvertently left in her bag which is
13 currently at her home in Philadelphia. We are arranging to try
14 and get a courier to her house --

15 THE COURT: Okay.

16 MR. WISHNEW: -- to have it brought back to the court
17 presumably by about 3 p.m.

18 THE COURT: Okay. Well, we're scheduled for today and
19 tomorrow, so we'll -- but it better be here.

20 MR. WISHNEW: Understood, Your Honor. I'll just make
21 one more point that the exhibit that is in our binder as
22 Exhibit D, as in dog, it is the 2008 limited power of attorney.
23 It is a color copy of the original. And we'll have Ms. Smoot
24 testify however she testifies, but that is the closest thing to
25 the original that we have currently in the courtroom.

1 THE COURT: Well, we'll get an explanation for it.

2 MR. WISHNEW: Okay.

3 THE COURT: Okay. All right. Thank you.

4 Okay. Ms. Aniel, do you want to call your first
5 witness? I would suggest that let's get the HSBC witnesses to
6 testify first so that they can be released and go back to their
7 jobs or doctor's appointment, okay? Is that all right, Ms.
8 Aniel?

9 MS. ANIEL: Yes, will we just use the copy?

10 THE COURT: Yes. Yes.

11 MS. ANIEL: Okay. But they could state just that --

12 THE COURT: They have to.

13 MS. ANIEL: Yeah. Thank you very much, Your Honor.

14 THE COURT: They have to. Okay. All right.

15 So who is your first witness?

16 MS. ANIEL: I would like to call -- Nancy, right?

17 THE COURT: Okay.

18 MS. ANIEL: Thank you, Nancy, for coming.

19 THE COURT: Come on up to the witness stand. You'll
20 stand and raise your right hand and you'll take the oath, okay?

21 (Witness sworn)

22 THE COURT: All right. Please have a seat. What is
23 your name?

24 THE WITNESS: Nancy Luong.

25 THE COURT: I'm sorry, I didn't -- you have to keep

1 your voice up. The last name I didn't hear.

2 THE WITNESS: Luong.

3 THE COURT: Luong, okay. And you have water in front
4 of you.

5 THE WITNESS: I do. Thank you.

6 THE COURT: There's a water pitcher there if you --

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: -- if you want some.

9 All right. Go ahead, Ms. Aniel.

10 MS. ANIEL: Is this okay?

11 THE COURT: You ask your questions from there. If you
12 want to show her some documents you can --

13 MS. ANIEL: Okay.

14 THE COURT: -- you can come up to her and give her the
15 documents.

16 MS. ANIEL: Hi, Ms. Luong.

17 THE WITNESS: Thank you.

18 THE COURT: And what you need to do is identify the
19 exhibit number -- go back to the microphone, if you will, okay?
20 And tell us what exhibit you've put in front of her.

21 DIRECT EXAMINATION

22 BY MS. ANIEL:

23 Q. Ms. Luong -- is that right, [Long]?

24 A. Yeah.

25 Q. Or [Lu-ong']?

1 A. [Lu-ong'] is fine.

2 Q. Oh, okay. So anyway, thank you for coming here, but we
3 have to find out the truth, okay? You have the copy, right, I
4 gave you, the power of attorney --

5 THE COURT: Could you tell me what it is you've put in
6 front of her?

7 MS. ANIEL: It's a 2008 limited power of attorney.

8 THE COURT: Okay, this is the Trust's Exhibit D, as in
9 David?

10 MS. ANIEL: Yes, I believe so.

11 THE COURT: Okay.

12 MS. ANIEL: Yes.

13 THE COURT: So the Trust had a small binder with
14 exhibits.

15 MS. ANIEL: Oh, because I'm looking on my --

16 MR. WISHNEW: Your Honor, it's number 6 in this --

17 THE COURT: Is it the same document?

18 MR. WISHNEW: I believe so, Your Honor, yes.

19 THE COURT: Okay.

20 MS. ANIEL: Sorry.

21 THE COURT: That's okay. All right.

22 MS. ANIEL: The one that I have is --

23 THE COURT: All right. So it appears to me that Ms.
24 Aniel's Exhibit number 6 is the same as the Trust's Exhibit D
25 as in David.

1 MS. ANIEL: Exactly, Your Honor.

2 THE COURT: Okay. All right. And that's in front of
3 the witness?

4 MS. ANIEL: Yes.

5 BY MS. ANIEL:

6 Q. Hello, Nancy.

7 A. Hello.

8 Q. Can I call you Nancy or Ms. Luong?

9 A. Yeah, Nancy's fine.

10 Q. Just Nancy. Okay. Could you state your name for the
11 record, please?

12 A. Nancy Luong. Nancy Luong.

13 Q. Okay. Before -- congratulations for the new baby.

14 A. Thank you. Thank you.

15 Q. Okay. Where do you work right now?

16 A. I work at HSBC.

17 Q. How long have you work --

18 THE COURT: Hang on. Just pull the microphone a
19 little closer to you. That's it.

20 THE WITNESS: Okay.

21 THE COURT: Okay? How long have you worked there?

22 A. Almost eight years.

23 Q. Almost what?

24 A. Eight years.

25 Q. Oh, that was way back in --

1 A. 2008.

2 Q. 2008? Oh, do you know what date was that? You know what
3 date when you were hired by HSBC?

4 A. The date I was hired?

5 Q. The date that you --

6 A. August 25th, 2008.

7 Q. August?

8 A. Yes, 25th.

9 Q. 25th?

10 A. Yeah.

11 Q. Hum. And after three days you signed as a witness, huh?

12 A. Yes.

13 Q. Okay. Can you tell me what is your position in HSBC?

14 A. Corporate trust specialist.

15 Q. Corporate trust specialist. What is your duties and
16 responsibilities being a corporate trust --

17 THE COURT: Corporate trust specialist.

18 Q. -- specialist?

19 THE COURT: Yes. Go ahead.

20 A. We -- we're a trustee for these indenture agreements. We
21 perform limited duties. We -- we sign documents -- we review
22 them, sign them, and we process them, and we provide them to
23 the servicers upon request.

24 Q. So is -- I really -- but can you speak louder, please?

25 MS. ANIEL: And also I want the Court to note, Your

1 Honor, English is also my second language.

2 THE COURT: Okay.

3 MS. ANIEL: So --

4 THE COURT: You're doing fine.

5 MS. ANIEL: Oh, thank you very much. But sometimes
6 when I speak, like, just correct me if I'm -- if you don't
7 understand.

8 THE COURT: If I don't understand, I'll ask. If the
9 witness doesn't understand, she'll ask. We'll get it all just
10 fine, okay?

11 MS. ANIEL: Okay.

12 Q. So can you repeat that? What is --

13 THE COURT: No, they're my law clerks.

14 MS. ANIEL: Who is this?

15 THE COURT: It's a recording, but it's a voice
16 recording system, so it's not really feasible to read it back.
17 Go ahead and repeat your question, okay?

18 Q. Okay. What is your responsibilities and duties as a
19 corporate trust specialist?

20 A. Well, we have a lot of responsibilities, but one of the
21 responsibilities is reviewing documents, signing documents,
22 pretty much under the agreement that we're -- we're contracted.

23 Q. Is signing as a witness on a limited power of attorney is
24 one of your duties too?

25 A. Yes.

1 Q. Okay. Did you -- so you were only three days when you
2 were -- you seem to sign -- witness this document. So are you
3 trained? Were you trained at that time?

4 A. Yes.

5 Q. So three days after you were hired you signed as a
6 witness?

7 A. Correct.

8 Q. Witnessing Susie Moy?

9 A. Yes.

10 Q. Oh, okay. So you're so fast at learning things. Okay.

11 MR. WISHNEW: Objection, Your Honor.

12 THE COURT: Overruled.

13 Q. Did you see Susie Moy signing this document?

14 A. Yes. Yes.

15 Q. Where?

16 A. In the office where we worked --

17 Q. What office? Can you tell me what's the address of that
18 office that you -- you signed this 2008 limited power of
19 attorney?

20 A. Yes.

21 THE COURT: Tell us what the address of the office
22 was?

23 THE WITNESS: The actual address?

24 THE COURT: Yes --

25 THE WITNESS: Okay.

1 THE COURT: -- the physical address of the office.

2 THE WITNESS: At that time it was 10 East 40th Street,
3 New York, New York.

4 THE COURT: Okay.

5 MS. ANIEL: Your Honor, I forgot to ask also -- the
6 witnesses are here?

7 THE COURT: They are.

8 MS. ANIEL: Yeah, isn't it that they're supposed to be
9 secluded while she is testifying, right?

10 THE COURT: Are you requesting that the witnesses be
11 excluded from the courtroom?

12 MS. ANIEL: No, while she is testifying, Your Honor,
13 because she might --

14 THE COURT: Okay. All right.

15 MS. ANIEL: Sorry, Your Honor.

16 THE COURT: So who are the other witnesses?

17 MS. FERGUSON: Your Honor, Meghan Ferguson from
18 Williams & Connolly. I'm here with the HSBC witnesses.

19 THE COURT: Okay. So the HSBC witnesses should
20 be -- all the witnesses should step out into the hall. I
21 apologize, but that's what we have to do.

22 MS. FERGUSON: Okay, no problem.

23 THE COURT: If the request to exclude witnesses from
24 the courtroom is made, it's permissible, so --

25 MS. FERGUSON: Yes, Your Honor.

1 THE COURT: Okay? See, unless you request that, it
2 doesn't happen?

3 MS. ANIEL: Oh, you know what? I forgot and --

4 THE COURT: No, I really --

5 MS. ANIEL: That's on my mind, of course.

6 THE COURT: No, but I'm --

7 MS. ANIEL: Thank you, Your Honor.

8 BY MS. ANIEL:

9 Q. So you saw her signing the limited power of attorney in
10 2008?

11 THE COURT: She said that already. Go ahead. Ask
12 your -- we don't want to repeat questions. Just ask new
13 questions.

14 Q. Okay. Repeat your ques -- repeat your answer, please.

15 THE COURT: She already told you that she -- the
16 witness -- Ms. Moy came to you and you signed as a witness, is
17 that right?

18 THE WITNESS: Correct.

19 THE COURT: Okay. She said that before. Go ahead.

20 Q. Okay. Did you see Ms. Moy sign it in front of a notary
21 public?

22 A. Can you repeat that question?

23 Q. Did you see Moy signing it in front of a notary public?

24 A. We -- we sit in the same office, and we -- we signed
25 the -- the document.

1 THE COURT: May I suggest just that the notary shown
2 is Nina Nassar.

3 THE WITNESS: Yes.

4 THE COURT: Was she in the office as well?

5 THE WITNESS: Yes, she was.

6 THE COURT: In the same office?

7 THE WITNESS: Same office.

8 Q. So did you see her signing in front of a notary public?

9 THE COURT: Did you see who sign in front of a notary
10 public?

11 A. Who sign?

12 Q. Susie Moy.

13 A. Will you repeat that?

14 Q. Okay. Did you see Susie Moy signing it in front of Nina
15 Nassar, who is a notary public?

16 A. I'm -- we -- we signed in the same office so I'm not sure
17 what you're saying "in front of" her.

18 Q. Is it that you said that she signed it -- you see Susie
19 Moy signing it, right?

20 THE COURT: Was Nina Nassar in the same office?

21 THE WITNESS: Yes, she was.

22 THE COURT: And at the time that this was signed?

23 THE WITNESS: Yes.

24 THE COURT: Ask your next question.

25 Q. So she signed it? Okay. What about Doris Wong; did she

1 sign it? Did you see an actual -- did you see Doris Wong sign
2 it in front of Susie Moy as a witness?

3 A. We signed it in -- in the same office.

4 Q. Yeah, but is that together? I know that you're in the
5 same office, but did you sign it together with Doris Wong?

6 A. Well --

7 Q. In front --

8 A. No, I sign it and then I pass it to Doris to sign as well.

9 THE COURT: And she signed it?

10 THE WITNESS: Yes.

11 Q. So you just passed it to Doris Wong?

12 A. Correct.

13 Q. To have it signed, right?

14 A. Correct.

15 Q. Okay. So Doris Wong --

16 THE COURT: Can I just understand? Susie Moy, you,
17 Nancy Luong, Doris Wong, and Nina Nasser were all in the same
18 physical office space --

19 THE WITNESS: Correct, Your Honor.

20 THE COURT: -- when this was signed?

21 THE WITNESS: Correct.

22 THE COURT: Okay.

23 Q. So they just -- my question is did you sign -- did you see
24 Doris Wong also signing it in front of Susie Moy? Were you
25 seeing Susie Moy signing the --

1 A. We -- we all signed this limited power of attorney in the
2 same office in the same space.

3 Q. Yeah, in the same office; it's like, you know, in the same
4 office, but of course Susie Moy has her own room for -- right?
5 Because she's -- according to the documents, she's a vice
6 president. She must have her own suite, right?

7 THE COURT: Were you all in the same -- did you all
8 share the same office?

9 THE WITNESS: Yes, we did, the same space --

10 THE COURT: The same space?

11 THE WITNESS: -- in the office.

12 Q. The same space? She doesn't have -- the -- it's just an
13 open space?

14 A. Yes, it's an open space.

15 Q. She doesn't have her own office?

16 MR. WISHNEW: Objection, Your Honor. Asked and
17 answered.

18 THE COURT: Overruled. Give her a little leeway.

19 Ask your next question.

20 Q. Okay. Where is Nina Nassar now?

21 A. She's not here right now. She's not in the same --

22 THE COURT: Does she still work at HSBC?

23 THE WITNESS: Oh, she -- yes, she -- yes, she does.

24 THE COURT: Okay.

25 Q. She does work still in HSBC New York?

1 A. Not in New York.

2 Q. Where?

3 A. She works in Chicago of HSBC.

4 Q. Oh, okay, because that's what information I got from
5 shared office, okay.

6 THE COURT: Okay. Let's leave the commentary out.

7 MS. ANIEL: Oh, I'm sorry.

8 THE COURT: You're entitled to ask questions and
9 that's all.

10 MS. ANIEL: Okay. Thank you, Your Honor.

11 Q. Okay. So did you see Susie Moy reading the limited power
12 of attorney before she signed this? Did you see her reading
13 the doc -- reading the contents of the limited power of
14 attorney before she signed it?

15 A. I see that she did sign this power of attorney.

16 Q. So she --

17 THE COURT: Did you see her read it before she signed
18 it?

19 THE WITNESS: No.

20 THE COURT: Okay.

21 Q. Did you read the limited power of attorney?

22 A. Yes, when I signed it.

23 Q. You read it before you sign it?

24 A. Yes.

25 Q. But you didn't see Susie Moy --

1 THE COURT: Okay, you asked that she answered it one
2 time. Ask your next question.

3 MS. ANIEL: Okay.

4 Q. Do you know what time you signed this? Do you remember
5 what time you signed this?

6 A. I don't recall the time.

7 Q. Is it in the morning, the afternoon?

8 A. I don't recall. It's been eight years ago, approximately.

9 Q. Okay. Is this -- this was your -- part of your duties,
10 right?

11 THE COURT: Asked and answered. Ask your next
12 question. You already asked this.

13 MS. ANIEL: No, I say --

14 THE COURT: You did. You asked the question --

15 MS. ANIEL: Yeah?

16 THE COURT: -- early on in the examination.

17 Q. What other documents did you sign aside from limited power
18 of attorney?

19 A. Letters -- letters for the bank. Letters for the bank.

20 Q. Letters for the bank? Can you speak, because I have also
21 hearing --

22 A. Okay. No problem.

23 Q. -- problem. Letters to the bank?

24 A. Letters for the bank.

25 THE COURT: For the bank.

1 THE WITNESS: For the bank.

2 THE COURT: Letters for the bank.

3 MS. ANIEL: For the bank, oh, okay.

4 Q. Did you send letters to the loan servicer, GMAC? You sent
5 them in your --

6 THE COURT: Okay. This witness' relevance to this
7 proceeding was as one of the witnesses to the limited power of
8 attorney. I'm going to limit what you can ask this witness
9 about. So confine your questions to the reason the witness is
10 here. There was a motion to squash the subpoena. I denied
11 that motion with respect to several of the HSBC witnesses
12 because of their relevance to the power of attorney that was
13 signed. And that's what I'm going to permit your examination
14 about. Do you have any other questions you wish to ask about
15 that?

16 MS. ANIEL: Okay, Your Honor.

17 Q. How long do you know Doris Wong?

18 A. For almost eight years.

19 Q. Oh, okay. Are you a notary public, Nancy?

20 A. No.

21 Q. Are you a notary public?

22 A. Notary, you're saying?

23 THE COURT: Yeah, are you a notary --

24 A. Notary public?

25 THE COURT: Are you a notary public?

1 A. No.

2 Q. No, you're not? Is Doris Wong a notary public?

3 A. Yes, I'm aware she is.

4 Q. Is there notary publics under HSBC Bank, corporate?

5 A. I don't understand that question.

6 THE COURT: Okay, look --

7 MS. ANIEL: I will ask her other --

8 THE COURT: Ms. Aniel?

9 MS. ANIEL: Yeah.

10 THE COURT: You have Doris Wong here --

11 MS. ANIEL: Oh, yes, yes.

12 THE COURT: -- as a witness. You have Susie Moy
13 here --

14 MS. ANIEL: Okay.

15 THE COURT: -- as a witness.

16 Q. Okay. What is your understanding of this limited power of
17 attorney in 2008?

18 A. This limited power of attorney was signed so that it could
19 be given to the servicer to perform their duties as servicer
20 for loans that they service.

21 Q. Okay. Do you know that this limited power of attorney has
22 an attachment from you guys?

23 A. Yes, I -- I see that. It was -- there's an Exhibit A
24 attached to this limited power of attorney.

25 Q. Did you go through all this -- the name of the trust that

1 was attached to the limited power of attorney?

2 A. I -- I read it, yes.

3 Q. Okay. It says here one of the trusts that was listed
4 on this power of attorney it says HSBC Bank USA National as
5 trustee for Deutsche Alt-A Securities Mortgage Loan Trust,
6 Series 2007-OA5

7 A. Yes.

8 Q. Is that correct? Is that correct name of the trust?

9 A. Yes, I see that on the Exhibit A of the limited power of
10 attorney.

11 Q. Okay. Is DALT 2007-OA, is that the same as the name of
12 this trust, DALT, say DALT, D-A-L-T 2007-OA5?

13 A. You mean -- would you repeat that again?

14 Q. Is that the same name Deutsche Alt-A Securities Mortgage
15 Loan Trust Series 2007-OA5? Is that the same as HSBC as
16 trustee for DALT, D-A-L-T, 2007-OA5? Is that the same trust
17 name?

18 A. You say -- did you say that -- you said HSBC --

19 Q. I --

20 A. -- as trustee --

21 Q. D as in dog.

22 A. Um-hum.

23 Q. A, apple, L, Larry, T, Tom, 2 --

24 A. Yes.

25 Q. -- 00 -- oh, yes, okay. Okay. If you go to, on the page

1 second, it says "Exhibit A continued".

2 A. Um-hum.

3 Q. It says "updated as of October 5, 2006". Is that correct?

4 A. Yes, I see that here on the Exhibit A.

5 Q. Is that correct? This is the continuation of Exhibit A,
6 the first page?

7 A. Correct.

8 Q. Okay.

9 THE COURT: Did you have all three pages of this
10 exhibit at the time that you witnessed it?

11 THE WITNESS: Yes.

12 Q. Okay. So this is -- is this genuine? Is this a genuine
13 limited power of attorney from your office, HSBC?

14 A. Yes.

15 Q. Okay. So can you explain why it was updated as of October
16 5, 2006, on the attachment they updated that, and tell me why
17 is it updated as of October 6, 2000 -- I'm sorry, 2000, October
18 5 -- updated October 5, 2006. Can you explain why it was
19 updated as of October 5th, 2006?

20 A. The wording "updated as of October 5, 2006", I believe it
21 was in the header of the Word doc, so it printed out when -- as
22 we printed this limited power of attorney.

23 Q. So why is it that the trust name, Deutsche Alt Securities
24 Mortgage Loan Trust, Series 2007-OA was included in this if
25 this attachment was updated on October 5, 2006?

1 A. The last page -- the third page to the limited power of
2 attorney has the old -- has that header there, but the limited
3 power of attorney is -- that we -- we dated was August 28,
4 2008.

5 Q. What is your expl -- can you repeat your explanation,
6 please? I'm asking you: you said a while ago that Exhibit A
7 is the continuation of exhibit -- on the second page. So
8 Exhibit A continued, and it was updated in October 5, 2006.

9 A. That was just a header. It wasn't -- it wasn't -- it was
10 a header to the -- to the third page.

11 Q. So you want the Court to believe this was a header. What
12 kind of header? It was the time when you put up this name of
13 the trust, is that what it is?

14 A. No. Just -- can you repeat that again?

15 THE WITNESS: She's saying -- is she asking for --

16 A. Are you asking the date of the limited power of attorney
17 was signed?

18 Q. No, the -- when we're talking about the power of attorney,
19 we're talking about the attachment on the power of attorney --

20 A. Okay, yeah.

21 Q. -- the two pages.

22 A. Okay.

23 Q. There are thirty names of the trust that were attached to
24 the power of attorney. Forget about the power -- the
25 attachment.

1 A. Okay.

2 THE COURT: Ms. Aniel, I'll ask this: do you agree
3 that your mortgage was included in the Series 2007-OA5?

4 MS. ANIEL: I believe Your Honor --

5 THE COURT: Do you agree that your mortgage was
6 securitized and included in the entry for -- I won't read the
7 entire entry but it's Deutsche Alt-A Securities Mortgage Loan
8 Trust, Series 2007-OA5? It's the next to the last entry on the
9 first page of Exhibit A. Do you agree that your mortgage was
10 included -- was securitized and included in that securitization
11 trust?

12 MS. ANIEL: I don't agree that my loan -- my
13 particular loan was included in the trust. That's why I was
14 asking if this was updated in October 5th, 2006, why is it that
15 the 2007 trust was not born yet, okay?

16 THE COURT: She said that when she signed as a witness
17 in August of 2008, the two-page attachment, Exhibit A, was
18 attached to it. That's what she said. You called her as a
19 witness about her witnessing this document. She's testified
20 about it. She testified about her signing it. She testified
21 about Ms. Moy signing it. She testified about Ms. Luong
22 signing it. She testified about Ms. Nasser notarizing it.
23 What other relevant questions do you have of this witness?

24 MS. ANIEL: The relevant question is that I believe
25 that this document was updated as of 2006, Your Honor, so I'm

1 ask --

2 THE COURT: She wasn't even there in 2006. She
3 testified --

4 MS. ANIEL: Oh, yes --

5 THE COURT: -- what she saw, read it, signed -- you
6 know, signed as a witness, saw the other people sign it.

7 MS. ANIEL: She just follow signing it --

8 THE COURT: Do you have any other questions?

9 MS. ANIEL: That's it, Your Honor.

10 THE COURT: Okay.

11 MS. ANIEL: Thank you, Your Honor.

12 THE COURT: Cross-examination?

13 MR. WISHNEW: Your Honor, I have no questions for Ms.
14 Luong.

15 THE COURT: Okay. You're excused. Thank you very
16 much.

17 MS. ANIEL: You're excused, Nancy.

18 THE WITNESS: Thank you.

19 THE COURT: All right. Who is your next witness, Ms.
20 Aniel?

21 MS. ANIEL: I think Doris Wong, Your Honor.

22 THE COURT: Okay.

23 MS. ANIEL: Doris Wong.

24 THE COURT: Ms. Wong? Let's get -- could you get Ms.
25 Wong to come back in?

1 If you would come up to the witness stand, Ms. Wong,
2 you'll be sworn, and then you -- first raise your right hand
3 and you'll be sworn and then you'll be able to sit down, okay?

4 (Witness sworn)

5 THE COURT: All right. Please have a seat. If you'd
6 like some water, there's water there as well.

7 THE WITNESS: Okay. Thank you.

8 THE COURT: Okay?

9 All right. You have to try and keep your voice up
10 when you speak, okay?

11 THE WITNESS: Okay.

12 THE COURT: All right. Thank you very much.

13 Go ahead, Ms. Aniel.

14 DIRECT EXAMINATION

15 BY MS. ANIEL:

16 Q. Good morning.

17 A. Good morning.

18 Q. Do you want me to call you Ms. Wong or Ms. Doris?

19 A. Doris is fine.

20 Q. Doris, good. Thank you. Easy to remember.

21 MS. ANIEL: Is there any way that I could ask their
22 identification I.D., Your Honor?

23 THE COURT: I'm sorry; I don't understand.

24 MS. ANIEL: Is there any way I could ask their
25 identity through their driver license? Is that okay?

1 THE COURT: No, I'm not going to allow it. There's no
2 reason to.

3 Tell me what's your full name, where do you work, how
4 long have you worked there? Let's get that.

5 THE WITNESS: My name is Doris Wong. I work at HSBC.
6 This coming May will be ten years at HSBC.

7 THE COURT: Okay.

8 Q. What year you were hired by HSBC?

9 A. 2006.

10 Q. Pardon, again?

11 A. 2006.

12 Q. 2006. Do you know what year was that?

13 THE COURT: I don't understand.

14 Q. Do you know what month was that?

15 A. May.

16 Q. May 2006.

17 THE COURT: What is your position at HSBC?

18 THE WITNESS: Currently it's controller reporting
19 manager.

20 THE COURT: And what was it in August of 2008?

21 THE WITNESS: I was a senior corporate trust
22 specialist.

23 THE COURT: Okay. All right. Go ahead, Ms. Aniel.

24 Q. Can you tell me what is your responsibility as of 2008 as
25 a manager corporate of the trust?

1 A. I -- I was a senior corporate trust specialist. I
2 reviewed documents. I processed any requests from our client
3 accordance to our documents.

4 Q. So how many trust did you handle? Did you handle the
5 trust itself?

6 A. I handle a few, yes, trusts, but I can't recall how many.

7 Q. In 2008 you don't recall how many trusts did you handle?

8 A. No, I can't recall.

9 Q. Okay. I'll give you a copy of the limited power of
10 attorney.

11 THE COURT: I think she probably has it up there.

12 MR. WISHNEW: It's in the small binder.

13 MS. ANIEL: I think you have that.

14 THE COURT: Yeah, if you'd look at Exhibit D, as in
15 David, in that binder, it's the same as Exhibit 6 in Ms.
16 Aniel's binder, okay?

17 THE WITNESS: Okay.

18 THE COURT: Go ahead, Ms. Aniel.

19 Q. Okay. Ms. Wong, you signed this as -- did you see Susie
20 Moy signing this in front of you?

21 A. We sat very close to each other and -- in the office, and
22 I recognize her signature.

23 Q. So how close you are from Ms. Moy?

24 A. We sat just cubes away.

25 Q. So --

1 A. Just right behind me.

2 Q. So you have a cubes -- it's like a -- you have a cubes?

3 You have your own cubes in the office?

4 A. It's an open office.

5 Q. Open office, okay. So how far are you when you -- how far
6 are you from Ms. Moy, from where you were located in the second
7 office. How far? Can you estimate, just estimate?

8 A. Just a desk or two away.

9 Q. Is that two feet? Two feet?

10 A. No, I --

11 Q. Three feet?

12 A. I don't know in feet.

13 Q. But it's close, right?

14 A. Yeah.

15 Q. So when she signed this power of attorney, are you there,
16 or she already signed it when she gave it to you?

17 A. She has -- I would receive the POAs with the signature
18 signed.

19 Q. So she brought it to you with her signature signed?

20 A. Yes.

21 Q. Okay. Did you see her signing in front of the notary
22 public, the name of Nina Nassar?

23 A. We have -- it's common practice that we have -- we have a
24 system that we basically sign. She -- Susie would prepare the
25 POAs and we will sign as witnesses, and then it'll be brought

1 to the notary.

2 Q. So in other words, Susie Moy signed this limited power of
3 attorney without somebody witnessing it, not in front of the
4 notary, so you have -- she didn't sign it -- you didn't see her
5 signing it in front of Nina Nassar, a notary public?

6 A. We were in the same open office.

7 Q. But you did not sign it -- but you did not see her signing
8 it in front of Nina Nassar?

9 A. No.

10 Q. Did you see her signing it in front of Nancy, though?

11 A. No.

12 Q. Okay. So I assume that the papers were already signed by
13 Susie Moy, given to Nancy Luong, and given to you, is that the
14 right --

15 A. Yes.

16 Q. And then give it to Nina Nassar who would notarize the
17 document?

18 A. Yes.

19 Q. Okay. Did you sign this? Is this your signature in 2008?

20 A. Yes.

21 Q. Can I ask you a specimen of your signature to show to the
22 Court if this is actually your signature? Can you sign it?

23 MR. WISHNEW: Objection, Your Honor. Asked and
24 answered.

25 THE COURT: No, she wants an exemplar of Ms. Wong's

1 signature. Do you have a plain piece of paper? Please bring
2 the piece of paper up to Ms. Wong and I'll ask her to sign it.

3 Go ahead and sign it.

4 We're going to mark that as a court exhibit. I'm
5 going to mark it as Court Exhibit 1, and it is a piece of lined
6 paper on which Ms. Wong has signed.

7 (Signature specimen of Doris Wong was hereby marked for
8 identification as Court's Exhibit 1, as of this date.)

9 THE COURT: Would you like to look at it, Ms. Aniel?
10 I've examined it. Yeah, if you'd like to compare it. I'll
11 just say I've compared it to the signature on the limited power
12 of attorney, which is Aniel Exhibit 6, and the Trust Exhibit D,
13 and it appears to be identical.

14 MS. ANIEL: Yes, I would just like this when I receive
15 the original copy of the limited power of attorney.

16 THE COURT: Well, you'll give it back to the Court.

17 MS. ANIEL: Okay.

18 THE COURT: And the Court will -- give it to one of my
19 law clerks, Ms. Aniel. We'll hold it, and you'll be able to
20 compare it when you see the original, okay?

21 Q. On the copy from the Trust that you were provided, you
22 both signed it in a blue color, is that correct?

23 A. Well, what I'm seeing here, it's in color. And -- and
24 according to this copy it's blue, but I -- I can't recall what
25 I signed -- in what color I signed in 2008.

1 Q. Okay. Because --

2 THE COURT: Ask your next question.

3 Q. Okay. Did you read this limited power of attorney before
4 signing it?

5 A. Briefly read.

6 Q. Did you understand what it is?

7 A. It's a limited power of attorney --

8 THE COURT: Did you understand then what it was?

9 THE WITNESS: Yes.

10 Q. Can you explain what is your understanding of this limited
11 power of attorney?

12 A. As a part of HSBC as trustee on -- on these trusts, we
13 are -- we review the doc -- our documents to ensure that when
14 the servicer requests for a POA we are allowed to give the
15 servicer a POA. And the POA is basically allowing the servicer
16 to sign on behalf of HSBC for performing whatever they need as
17 a servicer.

18 Q. Is that including also assigning and assignment of the
19 deed?

20 A. I -- yes.

21 Q. So you authorized, on this limited power of attorney, it
22 means that HSBC, your employer, as a principal, and then
23 appointing GMAC Mortgage, LLC as their agent to do all these
24 administrative duties, is that correct?

25 A. HSBC has limited duties, and the servicers have a lot of

1 responsibilities where we sign the POA for them to perform.

2 Q. Why is it that -- who usually -- did the trustee, HSBC
3 trustee do the assignment of the deed? Did you designate that
4 with the loan servicer? Who's supposed to record executed
5 assignment of the deed?

6 A. Servicer.

7 Q. Servicer? Okay. So do you know Mira Smoot?

8 A. No.

9 Q. You don't know her?

10 A. Well, I don't know her and I -- I don't handle the deals
11 that were -- where GMAC was the servicer.

12 Q. Oh, I see. Okay. Do you know -- is it -- on this limited
13 power of attorney, is this your -- the interpretation of this
14 limited attorney, you're only -- the trustee only giving this
15 limited administrative duties to do their job, am I right?
16 GMAC job to sign for it, to execute, acknowledge, and deliver
17 another one.

18 A. So the POA allows the GMAC to sign on our -- on our
19 behalf.

20 Q. Okay. GMAC, as a corporation?

21 A. The servicer.

22 Q. Okay. Does it mean that the employee -- any employee of
23 GMAC could sign it on behalf of HSBC as authorized officer?

24 A. I'm not too sure I understand your question.

25 Q. Does the trustee -- HSBC, as trustee, authorize also GMAC

1 employees to sign on behalf of the trustee, on behalf of HSBC?

2 A. It allows the servicer to sign, but I don't know what the
3 company's practice is.

4 Q. So in other words, HSBC did not authorize Mira -- because
5 Mira is an employee of GMAC.

6 A. In order for -- so I can only attest to what the bank
7 does, right? The bank has a -- we sign based off of whatever
8 we're allowed to because of -- of an authorization provided by
9 the bank. So I can't say what -- I can't say what GMAC is
10 allowed and not allowed except for the fact that we provided a
11 POA to allow GMAC to sign on behalf of HSBC.

12 Q. So in your understanding, only GMAC, as a corporation of
13 limited liability, could only do that act, not the employee of
14 GMAC?

15 THE COURT: I don't understand.

16 MS. ANIEL: Because she's saying, Your Honor, that
17 they empower GMAC.

18 THE COURT: She can testify about what HSBC's
19 practices were, not about GMAC's. She was a witness to a
20 document. She's testified about witnessing it and about it
21 being notarized and who signed it. Ask your next question.

22 Q. Okay. Did you have any document to show that Mira Smoot
23 is authorized officer of HSBC --

24 MR. WISHNEW: Objection, Your Honor.

25 Q. -- Bank as trustee?

1 THE COURT: Sustained. Ask your next question.

2 Q. Are you a notary public?

3 A. Yes.

4 Q. When was your --

5 THE COURT: She didn't sign this as a notary. It's
6 not relevant.

7 MS. ANIEL: Okay.

8 THE COURT: Ask a question that's relevant.

9 MS. ANIEL: Oh, okay, Your Honor. Okay. I have one
10 more question.

11 Q. On the limited power of attorney, there are two
12 attachments. Did you see that there?

13 A. Yes.

14 Q. Okay. And according to this limited of attorney that you
15 witnessed, signed as witness, there are, like, thirty trust --
16 named trusts that were serviced the GMAC, giving authority to
17 service by GMAC the name of this trust. So can you review
18 that? Would you agree that HSBC is actually the trustee of all
19 these trusts named here?

20 A. Yes.

21 Q. That it? Okay. Can you explain that Exhibit A continued
22 on the second page?

23 A. It is part of Exhibit A --

24 Q. Yes.

25 A. -- because it's continued.

1 Q. So can you read that to the Court, please?

2 THE COURT: I've read it. She doesn't have to read it
3 to me; I've read it. Go on. Ask your next question.

4 MS. ANIEL: Oh, okay.

5 Q. What does it mean "updated as of October 5, 2006"?

6 A. Typically, this is a header. If we have any revisions on
7 the header, we'll update that the date said October -- whatever
8 the date that we revised it on. But this is a Word document.
9 It's common that, you know, headers can be forgotten to be
10 updated.

11 Q. So in other words, it was dated as October 5, 2006?

12 A. Not -- yes, but not necessary because, as I mentioned,
13 this is a Word document, and it's common that headers can be
14 forgotten to be updated.

15 THE COURT: Can I ask you this? Were the two pages of
16 Exhibit A attached to the limited power of attorney when you
17 witnessed it?

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 Q. If this is updated as of October 5, 2006, you should know
21 better that there are --

22 THE COURT: Don't argue with her; ask a question.

23 MS. ANIEL: Okay.

24 THE COURT: When you tell her you should know better
25 you're arguing with her.

1 MS. ANIEL: Okay.

2 THE COURT: Ask a question.

3 Q. Where is it that the DALT 2007-OA5, the Deutsche Alt, was
4 included in this updated exhibit? Why is it included in 2006
5 updated --

6 THE COURT: It happens to appear on a page that
7 doesn't bear that header about updated. There's no header on
8 the first page of Exhibit A, and that's where the Series 2007-
9 OA5 appears.

10 MS. ANIEL: Yeah, Your Honor, but it says Exhibit A --

11 THE COURT: Go ahead and ask your next question.
12 Let's not argue about it.

13 MS. ANIEL: Continue? Okay. This is just the
14 evidence that shows -- I'm just confused, Your Honor.

15 THE COURT: Okay. Ask questions. Your confusion is
16 not a question.

17 MS. ANIEL: Okay.

18 Q. Why is this limited power of attorney was not recorded in
19 the county of New York?

20 A. It's not HSBC's process to record anything.

21 Q. But HSBC is the principal. You have to -- you know, as
22 the principal, when you have this limited power of attorney,
23 you executed limited power of attorney, you become the
24 principal and you are appointing --

25 THE COURT: Listen.

1 Q. -- an agent.

2 THE COURT: Wait a second. Ms. Aniel, you don't tell
3 anybody what the law is, okay? You ask questions of this
4 witness. You ask her if it was recorded.

5 Was it recorded?

6 THE WITNESS: I said that it's -- we don't have duties
7 to record anything.

8 THE COURT: Okay. All right. Ask your next question.

9 MS. ANIEL: Okay.

10 Q. Do you know Susie Moy?

11 A. Yes, she's a colleague.

12 Q. How long she was employed by HSBC?

13 A. She has been employed even prior to me starting at HSBC.

14 Q. Before you, right, in 2006 -- May 2006?

15 A. She started before I started, I know.

16 Q. Okay.

17 A. I don't know how long she's been working for the bank,
18 though.

19 THE COURT: We can --

20 Q. Is she --

21 THE COURT: We can ask her when she testifies.

22 THE COURT: Okay.

23 Q. Is she a vice president in 2008?

24 A. Yes, she was.

25 MS. ANIEL: Okay, I think, Your Honor, we've covered

1 everything.

2 THE COURT: Okay. Any cross-examination?

3 MR. WISHNEW: Very briefly, Your Honor.

4 THE COURT: Go ahead.

5 MS. ANIEL: Doris, thank you very much for coming.

6 THE COURT: Okay. Go ahead, cross-examination.

7 We're going to let Mr. Wish -- you finished your
8 questions. He has a chance to cross-examine.

9 MR. WISHNEW: I stand up there.

10 MS. ANIEL: Pardon me?

11 MR. WISHNEW: I stand up there.

12 MS. ANIEL: Oh, yeah, I'm sorry, Your Honor.

13 THE COURT: Yeah. Go ahead and have a seat. That's
14 okay. Have a seat.

15 MS. ANIEL: It looks like on the podium.

16 THE COURT: Well, yeah, that's fine.

17 MS. ANIEL: Okay. I'll give it to him.

18 THE COURT: That's okay. Have a seat.

19 Go ahead, Mr. Wishnew.

20 MR. WISHNEW: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. WISHNEW:

23 Q. Good morning. How are you?

24 A. Good.

25 Q. Very briefly. In 2008, you testified you were a corporate

1 trustee specialist with HSBC?

2 A. Yes.

3 Q. Okay. As part of your responsibilities, were you often
4 asked to witness Ms. Moy's signature?

5 A. Yes.

6 Q. Okay. And would you say that you are familiar with Ms.
7 Moy's signature?

8 A. Yes.

9 Q. Okay. And in your opinion, is the signature on the
10 document we've been looking at Ms. Moy's signature?

11 A. Yes.

12 MR. WISHNEW: No further questions, Your Honor.

13 THE COURT: All right. Okay.

14 Do you have any other questions of the witness? It
15 has to relate to what Mr. Wishnew asked. Okay. You don't have
16 to, but you have the opportunity.

17 MS. ANIEL: I have no more questions, Your Honor.

18 THE COURT: Okay. Thank you.

19 MS. ANIEL: Thank you.

20 THE COURT: You're excused. Thank you very much.

21 Okay?

22 All right. So we're going to have Susie Moy come and
23 testify next? Okay.

24 MS. ANIEL: Yes, Your Honor.

25 THE COURT: All right.

1 MS. ANIEL: I would like to call Susie Moy, Your
2 Honor.

3 THE COURT: Yeah, she's bringing her in, okay?

4 THE COURT: If you would come up to the witness stand,
5 Ms. Moy, and stand and you'll be sworn, and then you'll be able
6 to sit, all right? Thank you very much.

7 If you'd raise your right hand.

8 (Witness sworn)

9 THE COURT: All right. Please have a seat. You have
10 to make sure you keep your voice up. Okay? Thank you very
11 much.

12 Go ahead, Ms. Aniel.

13 DIRECT EXAMINATION

14 BY MS. ANIEL:

15 Q. Good morning, Ms. Susie Moy. Do you want me to call you
16 Susie or Ms. Moy?

17 A. Susie is fine.

18 Q. Susie, can you talk louder so that --

19 A. Susie is fine.

20 Q. Okay. Thank you. So I'm going to address you Susie,
21 right?

22 THE COURT: Let me ask just to get the basics. Tell
23 me your name, where you work, how long you've worked there,
24 what your position is now, what it was in 2008, okay?

25 THE WITNESS: My name is Susie Moy. I work at HSBC

1 Bank. I've worked there since 2001, okay. And I --

2 THE COURT: What was your position in August of 2008?

3 THE WITNESS: Possibly assistant treasurer.

4 THE COURT: Okay.

5 THE WITNESS: And currently I'm vice president there
6 right now.

7 THE COURT: Okay. All right. Go ahead, Ms. Aniel.

8 Q. When did you become the vice president?

9 A. Very -- well, let's see. I don't know the exact promotion
10 date but --

11 Q. How long have you been vice president of the Trust?

12 A. I became AVP and then vice president during the years I've
13 been there, so --

14 Q. So you --

15 A. -- probably within one or two years that I'd been there --

16 Q. So you --

17 A. -- promoted to AVP and then after that I was promoted to
18 vice president.

19 Q. So in 2008, what is your position?

20 A. Vice president.

21 Q. Pardon me?

22 A. Vice president.

23 Q. Oh, vice president, okay. Do you have a copy of your
24 power of attorney?

25 THE COURT: If you look in that little binder, it's

1 Exhibit D, as in David, in there. There's a tab. If you look
2 at it, it's the same as the Aniel Exhibit 6 that we're talking
3 about, okay?

4 THE WITNESS: Okay.

5 THE COURT: Go ahead, Ms. Aniel.

6 MS. ANIEL: Can I ask the Court to have Ms. Moy sign a
7 specimen for her signature, please?

8 THE COURT: Bring up a piece of paper.

9 She wants to compare your signature.

10 THE WITNESS: I don't have a pen. Do you have a pen?

11 THE COURT: Okay. If you would just write your
12 signature.

13 THE WITNESS: I mean, do you want me to -- I have
14 various signatures sometimes. I mean, I fill it out or
15 sometimes I just do it this way.

16 THE COURT: You have to keep your voice up, so --

17 THE WITNESS: I have various signatures. Sometimes
18 the longer version, the shorter version.

19 THE COURT: Well, she wants to compare it to what you
20 signed on --

21 THE WITNESS: Oh, okay.

22 THE COURT: -- on the power of attorney.

23 THE WITNESS: Sure.

24 THE COURT: Okay.

25 BY MS. ANIEL:

1 Q. This is the only signature that --

2 THE COURT: You have to go back to -- ask questions
3 back there.

4 MS. ANIEL: Okay.

5 THE COURT: But let me mark that. I'm going to mark
6 this as Court Exhibit 2.

7 THE WITNESS: Sorry.

8 THE COURT: And I'll give it back to you in a second,
9 okay?

10 (Signature specimen of Susie Moy was hereby marked for
11 identification as Court's Exhibit 2, as of this date.)

12 THE COURT: All right. On Court Exhibit 2, there are
13 four places in which Ms. Moy has put her signature.

14 Show it to Mr. Wishnew and Ms. Arett as well, and
15 before you complete your questioning, you can give it to my law
16 clerks, and they'll have it available for you tomorrow.

17 Q. Is this the only signature that you have?

18 A. Yes.

19 Q. These four? Okay. Never had any signature at all? No?
20 Okay. Thank you.

21 THE COURT: All right. Why don't you hand it up to my
22 law clerks, okay? Ms. Aniel, hand Court Exhibit 2 to my law
23 clerks, okay? We'll have it here. Thank you.

24 Q. Susie or Ms. Moy -- Susie, right?

25 A. Yes.

1 Q. Susie. Susie, did you sign this?

2 A. Yes.

3 Q. When did you sign this?

4 A. The date August 28th.

5 Q. Did you sign it in front of the notary public by the name
6 Nina Nassar?

7 A. Yes.

8 Q. In front of her?

9 A. Yes, she's in our office, Nina.

10 Q. Okay. What about Nancy Luong?

11 A. Yes, Nancy's in the office as well.

12 Q. Did Nancy Luong witness you signing this?

13 A. Yes, she's in the office.

14 Q. In the office? What part of the office? In your office
15 or --

16 A. We're on the same floor, in the same area. We have
17 cubicles.

18 Q. Yeah, we're in the same area --

19 A. Yes.

20 Q. -- here now. I have to go to the judge chamber in order
21 for the judge to sign anything, right?

22 THE COURT: Okay. Let's ask questions.

23 MS. ANIEL: Okay.

24 Q. Do you know the meaning of this limited power of attorney?

25 A. Yes. It's giving GMAC the limited duties to do everything

1 that's stated here in the power of attorney.

2 Q. To GMAC?

3 A. Yes.

4 Q. Do you know Mira Smoot?

5 A. I'm sorry?

6 Q. Do you know Mira Smoot?

7 A. I don't know her personally, but I've gotten

8 various -- various -- I recall getting requests in the past for
9 POAs, and she's a servicer at GMAC.

10 Q. Where is she located when you talk to her? Do you know
11 where is she located?

12 A. No.

13 Q. No, you don't know?

14 A. We correspond through e-mail.

15 Q. But you were able to talk to -- have correspondence with
16 her during that time?

17 A. No, she send -- we correspond through e-mail. She would
18 request a power of attorney, limited power of attorney, and
19 that's --

20 Q. Did HSBC, as trustee, authorize Mira Smoot to sign on
21 behalf of HSBC?

22 A. Yes, we're giving her the limited power of attorney to
23 sign whatever she needs to do, all these duties that are stated
24 here.

25 Q. You mean that on this limited power of attorney she could

1 sign on behalf of GMAC as an authorized officer?

2 A. Yes.

3 Q. But it says here that only GMAC has the authority to sign.

4 It doesn't say here that Mira Smoot would be also authorized to
5 sign on behalf of HSBC. Does it says here Mira Smoot?

6 A. It -- it appoints GMAC the limited power of duties to do
7 everything here.

8 Q. Yeah, only --

9 A. And so --

10 Q. -- GMAC was given the power, not for Mira Smoot.

11 A. She's an authorized signer.

12 Q. How did she become an authorized signer of HSBC? Who gave
13 her the power to --

14 A. No, usually the servicer would come and request a limited
15 power of attorney, and we would check if they have the duty to
16 do that. We would check to see if she -- GMAC is a servicer
17 under this trust deal.

18 Q. My question is that is she authorized an officer of HSBC,
19 Mira Smoot?

20 A. No, she's -- under this limited power of attorney, we're
21 giving GMAC the duties -- power of attorney to do these limited
22 duties on behalf of the trust.

23 Q. Only to GMAC Mortgage, LLC.

24 THE COURT: Don't argue with the witness. Just ask
25 your questions.

1 Q. What about Mira Smoot -- that Mira Smoot has a special
2 power of attorney from HSBC for her to sign as authorized HSBC?

3 A. I don't understand your question.

4 Q. Does she have -- does HSBC give her a special power of
5 attorney to sign on behalf of HSBC as trustee for DALT 2007-OA?

6 MR. WISHNEW: Objection, Your Honor. Asked and
7 answered.

8 THE COURT: Overruled.

9 A. Well, she signed as an authorized officer of GMAC. So
10 we're giving GMAC the authority to do certain duties under this
11 limited power of attorney.

12 Q. Okay. So this limited power of attorney, any employee of
13 GMAC are authorized to sign on behalf of HSBC?

14 A. Yes, if they are an authorized officer of GMAC.

15 Q. On this limited power of attorney?

16 A. I would think so.

17 Q. Is that your understanding?

18 A. Yes.

19 Q. Okay. What is your duties and job at HSBC?

20 A. I'm an administrator on certain -- I guess, a set of
21 deals, administrator.

22 Q. Can you talk louder, please?

23 A. I'm an administrator on certain deals called the debt
24 deals. We do interest payments, trades, and various duties
25 like that.

1 Q. Is also -- signing a limited power of attorney is also
2 part of your duties?

3 A. Sure.

4 Q. Who gave you that power of attorney? Who empower you to
5 give that power of attorney to sign the limited power of
6 attorney?

7 A. Well, the documents -- the pooling and servicing that
8 governs this trust allows the trustee to give limited power of
9 attorneys to servicers.

10 Q. Allow you to who? Because this -- HSBC is a corporation,
11 am I right?

12 A. Yes.

13 Q. Isn't that supposed for you to get this authority to sign
14 a limit -- the corporation should empower you to have that
15 authority to sign on behalf of GMAC.

16 A. Yes.

17 Q. Did you have the -- is the board of director of HSBC
18 allowed you to have that power to sign a limited power on
19 behalf of the trust?

20 A. Sure. As an officer of the bank, you are given certain
21 authority to sign certain documents, so there is -- the bank
22 also has a list of authorized --

23 Q. No, who give -- who empowered you --

24 THE COURT: Don't interrupt her when she's still
25 speaking.

1 A. The bank also has a list of authorized officers that can
2 sign for certain things.

3 THE COURT: Were you an authorized officer --

4 THE WITNESS: Yes.

5 THE COURT: -- to sign?

6 THE WITNESS: Yes.

7 THE COURT: Okay.

8 Q. Who gave you the power --

9 THE COURT: She just answered that. She just
10 answered.

11 MS. ANIEL: She didn't answer that, Your Honor.

12 THE COURT: She did answer it.

13 Q. What is your answer?

14 A. My --

15 Q. Because you know, like, your voice is kind of, like, I
16 cannot hear it travelling.

17 A. I said the bank has a list of authorized officers that can
18 sign on its behalf as well.

19 THE COURT: And you're one of them?

20 THE WITNESS: Yes.

21 Q. Do you have a document to show that you are one of the
22 signer of the bank?

23 A. I don't have it here.

24 MR. WISHNEW: Your Honor, this is her witness. She --

25 THE COURT: Mr. Wishnew, legal objections only.

1 Ask your next question.

2 Q. Do you handle trusts of the HSBC bank?

3 A. Corporate trust deals, yes.

4 Q. Do you handle this particular trust, the DALT 2007-OA5?

5 A. Yes. Yes.

6 Q. You do? So you know what is the duty of the trustee?

7 A. Yes.

8 Q. What are the duties of the trustee?

9 A. Very ministerial duties, receiving annual reports, officer
10 certificates, but there is not a lot of day-to-day things,
11 inquiries. There's other parties that are involved in the
12 trust that do the other, like, payments, interest payments or
13 anything like that. So --

14 Q. Usually --

15 A. -- as trustee regarding ministerial duties.

16 Q. You usually deal with the mortgage payment of the trust
17 that was the trust?

18 A. No. No. I'm sorry. No.

19 Q. No? Just ministerial duty as the --

20 A. Of the --

21 Q. -- trustee?

22 A. Of the trust itself --

23 Q. I see.

24 A. -- the DALT 2007.

25 Q. So are you familiar with the pooling and servicing

1 agreement?

2 A. Yes.

3 Q. On this particular trust?

4 A. Yes.

5 Q. Do you know the value of the trust?

6 A. No, that's not relevant for us. We're reviewing value.

7 Q. How much the value of that trust? There must be a value
8 of the trust?

9 MR. WISHNEW: Objection, Your Honor. Relevance.

10 THE COURT: Sustained.

11 A. I guess the value will be --

12 THE COURT: I sustained the objection. It means you
13 don't have to answer the question.

14 THE WITNESS: Oh, I'm sorry.

15 THE COURT: Okay? Ask your next question.

16 Q. Do you know who is the depositor of this pooling and
17 servicing agreement?

18 A. I can't recall. I'm sorry.

19 Q. Did you read the pooling and servicing agreement?

20 MR. WISHNEW: Objection, Your Honor. Relevance.

21 THE COURT: Sustained. The issues are defined in the
22 pre-trial order. They're narrow, as I said at the start of the
23 trial. You need to confine your questioning to what's an issue
24 in this contested matter.

25 MS. ANIEL: My questions -- because there is an

1 alleged by the debtor that my loan was put into the trust on
2 this particular trust.

3 THE COURT: Don't argue with me. Ask your next
4 question.

5 Q. Do you know the asset of the trust?

6 MR. WISHNEW: Objection.

7 Q. What kind of asset is the trust having?

8 MR. WISHNEW: Objection, Your Honor. Relevance.

9 THE COURT: Sustained.

10 Q. Okay. On the limited power of attorney it says here there
11 are three pages.

12 A. Okay.

13 Q. And there is an Exhibit A that says that the trust
14 Deutsche Alt-A Securities Mortgage Loan Trust, Series 2007-OA5
15 was included on this limited power of attorney that was
16 serviced by the loan servicer, which is GMAC. Is this
17 accurate?

18 A. Yes. Yes.

19 Q. Do you know when did you -- did you know when did you pull
20 this information, the attachment for this limited power of
21 attorney 2008?

22 A. I'm sorry. What are you -- what do you mean?

23 Q. There's three pages of the limited power of attorney,
24 right? One is limited power of attorney, the other one is
25 Exhibit A and it says here "Exhibit A continued".

1 A. Okay.

2 Q. Okay?

3 A. Yes.

4 Q. When you signed this document notarized by Nina Nassar,
5 witnessed by Doris Wong and Nancy Luong, did you give them the
6 attachment?

7 A. Yes.

8 Q. When did you pull this attachment?

9 A. Whenever they request this --

10 Q. Whenever --

11 A. When they would request a POA, we would have an attachment
12 with it.

13 Q. Okay. So when you give this, it should be a complete
14 attachment and the power of attorney?

15 A. Yes. Yes.

16 Q. So that was the time you pulled it -- updated the
17 attachment, right?

18 A. Um-hum.

19 Q. Can you go on page 7, please?

20 A. Yes.

21 Q. Can you read this one, "Exhibit A continued"?

22 A. Yes.

23 Q. What does it says?

24 A. 2006 -- October 5th, 2006.

25 Q. Okay. So when you give this, it should be completed, the

1 attachment and the power of attorney?

2 A. Yes. Yes.

3 Q. So that was the time you pooled it, that dated attachment,
4 right?

5 A. Um-hum.

6 Q. Can you go on page 7, please?

7 A. Yes.

8 Q. Can you read this one, Exhibit A continued?

9 A. Yes.

10 Q. What does it says?

11 A. 2006. October 5th, 2006.

12 Q. So is it -- is this correct?

13 A. When there is requests for this, we update every time we
14 get a request from the servicers. I would think that this is a
15 footer that someone did not update.

16 Q. So in other words, you could be mistaken also, right?

17 A. There's no mistake.

18 Q. The trustee -- HSBC trustee of DALT 2007, that my loan
19 doesn't belong in the trust. It could be -- you could make
20 mistake because --

21 THE COURT: Ask questions. Don't argue.

22 Q. So is there any explanation for this, Ms. Moy?

23 A. The explanation is that when we had a request -- we
24 probably had a request in 2006.

25 Q. Oh, okay.

1 A. And then we continuously handle the request. And perhaps
2 in 2008 the exhibit was not the footer -- the header, I'm
3 sorry, was not updated.

4 Q. If this was updated on 2006, October, why is it that the
5 trust belongs to the 2008? Isn't that -- okay. Isn't
6 that -- this attachment was updated as of 2006, right? And
7 then why you said that the DALT -- the trust DALT 2007-OA5 was
8 included in this, if it was updated as of October '07? What
9 was the reason?

10 A. They may have other trust deals. GMAC may have other
11 trust deals that were 2006 trusts.

12 Q. So if the trust 2007 was born in 2007, why isn't the trust
13 included in 2006 updated? Is there any explanation of that?

14 A. Because it gives GMAC a limited power of attorney for all
15 their trusts --

16 Q. I understand that. Because you secured that in 2008. I
17 understand that, Ms. Moy. I really understand that. My
18 question is that the attachment, I have problem, I have issue
19 with the attachment. In the attachment it says "updated as of
20 2006". The question, why is it, if it's updated more than a
21 year prior to the birth of this trust in 2007, why is it that
22 this trust was included in 2006? Is there any explanation for
23 that?

24 A. I'm saying that the exhibit was not corrected on the first
25 page, perhaps. They just didn't update the header.

1 THE COURT: May I ask you? Both pages of Exhibit A
2 were attached when you signed it?

3 THE WITNESS: Yes.

4 THE COURT: Okay.

5 Q. Is -- what do you mean by assignment of the deed?

6 THE COURT: I didn't hear your questions.

7 Q. What do you mean -- do you understand the assignment of
8 the deed?

9 A. I'm sorry --

10 THE COURT: I still don't -- I still don't understand
11 your question.

12 MS. ANIEL: No, it's she's the trustee. She's the --

13 THE COURT: But I don't understand your question. I
14 don't allow questions to be asked that I don't understand.

15 MS. ANIEL: Really? Okay. Because HSBC as trustee is
16 giving power to GMAC to service all this trust. And there was
17 a duties that GMAC would perform. Number two -- number one, it
18 says: "to execute, acknowledge, seal, and deliver deed of
19 trust, mortgage note endorsement, lost note affidavit,
20 assignment of deed of trust, mortgage and other recorded
21 documents, satisfactions, releases, reconveyance of the deed of
22 trust, mortgage subordination and modification," and so on.

23 So these are the duties that was given to GMAC by
24 the -- by the bank.

25 Q. So my question is this. Do you understand that assignment

1 of the deed? What is the purpose of the assignment of the
2 deed?

3 A. That would be a duty of the servicer. I wouldn't be able
4 to exactly explain what they're doing.

5 Q. Okay, I understand. Do you know if the -- do you know if
6 Aniel was -- do you know, just like I asked before, you
7 serviced -- HSBC is the trustee of the trust, and you service
8 the trust; do you know what kind of asset the trust has?

9 MR. WISHNEW: Objection, Your Honor. Relevance.

10 THE COURT: Sustained.

11 MS. ANIEL: You know, Your Honor, it's very important
12 because --

13 THE COURT: Ms. Aniel, the pre-trial -- I ruled
14 previously in an opinion. There's a pre-trial order that
15 defines the issues for trial. I made it clear before we
16 started the trial today that many of your contentions are
17 outside the scope of the issues for this trial. They've
18 already been determined by the Court.

19 You have to proceed today solely with respect to the
20 issues for this trial.

21 As, your next question.

22 Q. Do you know if my loan was included in the trust? Do you
23 know if my loan was included in the trust?

24 A. If it's in the deed of 2007/08, yes.

25 Q. So how did you know that my loan was defaulted? Do you

1 know when was the loan defaulted?

2 A. I wouldn't have that information, because we're not the
3 servicer.

4 Q. So only the servicer has the knowledge of the default?

5 A. Yes.

6 Q. So does -- loan servicer will not notify the trustee if
7 there's a default?

8 MR. WISHNEW: Objection, Your Honor. Relevance.

9 THE COURT: Overruled.

10 A. No.

11 Q. So the trustee doesn't know if the loans is in default in
12 the trust, doesn't know? Only the loan servicer?

13 A. Yes, the day-to-day servicing of the loans are done by the
14 servicer.

15 Q. Okay. So the point an agreement -- the pooling and
16 servicing agreement says that they have also duties, once the
17 loan was defaulted in the trust, within ninety days, they
18 should be removed from the trust itself, and you as the trustee
19 would stand as the one who would -- you have to pick out that
20 loan in the trust if the -- you have to kick out the particular
21 loan in the trust within ninety days, so that you will not be
22 penalized by IRS, because this is a residential mortgage --

23 THE COURT: That's not a -- you're not asking a proper
24 question.

25 THE WITNESS: Not a question.

1 THE COURT: Okay.

2 MS. ANIEL: Because she is the trustee, Your Honor.
3 She handles the --

4 THE COURT: You're not asking -- that's not a
5 question. If you have a question ask a straightforward
6 question and the witness will answer it. Otherwise --

7 MS. ANIEL: So only the loan ser --

8 THE COURT: -- otherwise you'll conclude your
9 examination.

10 MS. ANIEL: Okay.

11 Q. In other words, only the loan servicer knew about the
12 default?

13 A. I'm sorry?

14 Q. Only GMAC as a loan servicer knows about the default?

15 A. If we're notified of anything that we need to do per the
16 pooling and servicing, we would follow what --

17 THE COURT: May I ask you this? Do you recall ever
18 being advised that the Aniels had defaulted on their loan?

19 THE WITNESS: I can't recall.

20 THE COURT: Okay. Do you recall ever being advised
21 that GMAC or anyone else had initiated foreclosure on the
22 Aniels' loan?

23 THE WITNESS: I can't recall.

24 THE COURT: Okay.

25 Q. Did loan servicer advise you that they executed a 2009

1 assignment of the deed?

2 THE COURT: It's an assignment of deed of trust, not
3 of the deed.

4 MS. ANIEL: A deed of trust, yes, thank you, Your
5 Honor.

6 Q. Assignment of deed of trust. Did they not tell you as a
7 trustee of the trust that they executed an assignment of the
8 deed in 2009 and 2011? Did the trust have knowledge --

9 A. I can't recall that in 2009 and 2011. I can't recall,
10 sorry.

11 Q. You don't remember, right?

12 THE COURT: You ask it once, and that's all you get to
13 ask it.

14 Q. Is this DALT Trust -- is this a performing trust right
15 now?

16 A. I believe it is. I don't handle this particular deal
17 anymore.

18 Q. When was the last time you handled the trust?

19 A. I can't recall, but it was several years ago. I moved to
20 another group.

21 Q. How long ago was that? Two years, three?

22 A. Possibly, yes. Possibly. I'm sorry.

23 Q. How many years?

24 A. Possibly two year, yeah.

25 Q. Two or three?

1 A. I don't recall. I don't have the exact date.

2 Q. Okay. I'll show you -- did you remember signing a proof
3 of claim on behalf of the ResCap -- filing a proof of claim on
4 behalf of -- on behalf of all the stress, did you remember that
5 in 2012?

6 A. It's possible.

7 THE COURT: Do you remember -- it's yes or no.

8 THE WITNESS: I -- I'm sorry. I don't recall. It's
9 possible.

10 Q. Okay, I'm going to show you a document which you remember.

11 THE COURT: Well, maybe she will, maybe she won't. If
12 you want put a document in front of her, identify what it is.
13 Is it one of the exhibits that you marked? If it's not, you're
14 not using it.

15 MS. ANIEL: No, Your Honor.

16 THE COURT: Ms. Aniel, is it an exhibit that you
17 previously marked?

18 MS. ANIEL: No, Your Honor.

19 THE COURT: Okay.

20 MS. ANIEL: I just want to confirm that --

21 THE COURT: No, you're not going to do it. Because
22 you were required to list all of your exhibits in the pre-trial
23 order; and you listed thirty-six of them. And the pre-trial
24 order on page 19 provides that no exhibit not listed by
25 claimants or the trust may be used at trial except for cross-

1 examination purposes, for rebuttal, or if good cause for its
2 exclusion from the pre-trial order is shown.

3 But for what purpose do you want to show her --

4 MS. ANIEL: I just want it for rebuttal, Your Honor.

5 THE COURT: I can't hear you. Speak to the
6 microphone.

7 MS. ANIEL: I'm just going to do it as the rebuttal.

8 THE COURT: Let's see the -- do you have copies of the
9 document for Mr. Wishnew?

10 MS. ANIEL: Yes, because is part, also, of our docket.
11 And I --

12 THE COURT: Well, I don't care whether it's part of
13 your docket, you didn't list it as an exhibit. This is a
14 witness that you've called. This is a witness you've called.
15 This is not cross-examination. You were required to list all
16 of your exhibits. Is it all of those papers?

17 MS. ANIEL: No, I just copy it so she --

18 THE COURT: Let me see what it is before you give it
19 to the witness.

20 MS. ANIEL: It's the --

21 THE COURT: This proof of claim refers to a Nomura
22 Asset Acceptance Corp, 2006-AR3. What does that have to do
23 with this case?

24 MS. ANIEL: Because it has her signature on --

25 THE COURT: Well, it has her signature, but -- you

1 have to go back here. Go back to the microphone.

2 You're trying to place a document in front of the
3 witness that Ms. Moy executed, but doesn't relate to the trust
4 in which your loan was put. What's the relevance?

5 MS. ANIEL: Her signature is evidence of her
6 signature.

7 THE COURT: We've already seen her signature. The
8 document, which is not listed among your exhibits, is not a
9 proof of claim that relates to the trust in which your loan is
10 included. I'm not going to permit you to use the document.

11 MS. ANIEL: Okay.

12 THE COURT: Do you have any other questions?

13 MS. ANIEL: I think that's it, Your Honor.

14 THE COURT: Okay. Cross-examination, Mr. Wishnew?

15 MR. WISHNEW: Very briefly, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. WISHNEW:

18 Q. Good morning, Ms. Moy.

19 A. Good morning.

20 Q. Very briefly. If I could ask you to turn back to the
21 limited power of attorney?

22 A. Yes.

23 Q. The two pages that are attached, do those two pages
24 reflect all of the trusts that GMAC was servicing as of the
25 date you signed the limited power of attorney?

1 A. I believe so.

2 MR. WISHNEW: No more questions, Your Honor.

3 THE COURT: All right. Okay, you're excused as a
4 witness. Thank you very much.

5 THE WITNESS: Thank you.

6 THE COURT: Okay. All right. We're going to take a
7 ten-minute recess, and then who are you going to call as your
8 next witness?

9 MS. ANIEL: I think Kathy, Your Honor.

10 THE COURT: Kathy Priore?

11 MR. WISHNEW: Your Honor, Ms. Aniel neither subpoenaed
12 Ms. Smoot nor Ms. Priore.

13 THE COURT: Well, is Ms. Priore here?

14 MR. WISHNEW: She is here, yes.

15 THE COURT: She's on your witness list. She's here,
16 she can call her as a witness.

17 MR. WISHNEW: Okay.

18 THE COURT: She listed her on her witness list. She
19 doesn't -- she's physically present. She doesn't need a
20 subpoena to get her here. You knew that she listed Ms. Priore
21 as a witness; and she can call Ms. Priore as a witness.

22 MR. WISHNEW: Okay.

23 THE COURT: Get Ms. Priore ready to come to the
24 witness stand.

25 MR. WISHNEW: Okay.

1 THE COURT: All right, we're taking a ten-minute
2 recess.

3 (Recess from 11:06 a.m. until 11:23 a.m.)

4 THE COURT: Okay, please be seated.

5 Ms. Priore?

6 MS. PRIORE: Yes.

7 THE COURT: Can you come on up to the witness stand?
8 If you'd stand and be sworn?

9 (Witness sworn)

10 THE COURT: All right, please have a seat. There's
11 water there if you'd like.

12 THE WITNESS: Thank you.

13 THE COURT: Okay, thank you.

14 Go ahead, Ms. Aniel.

15 DIRECT EXAMINATION

16 BY MS. ANIEL:

17 Q. Hi, good morning, Kathy.

18 MS. ANIEL: If I may begin now, Your Honor?

19 THE COURT: Yes, please, go ahead.

20 MS. ANIEL: Okay, thank you.

21 Q. Good morning, Kathy. It's nice to see you again.

22 I have a question. Since January '11 and based on your
23 declaration, okay, do you still insist that Aniel loan was on
24 the trust on or before July 1st, 2007?

25 A. Yes.

1 THE COURT: You have to speak up, okay?

2 A. Yes.

3 Q. Okay. What are the basis for that conclusion that my loan
4 was transferred to the trust on 2001 -- July 1st, 2007?

5 MR. WISHNEW: Objection, Your Honor.

6 THE COURT: Overruled.

7 A. The pooling and servicing agreement is dated 2007.

8 Q. So does it mean that that's the cutoff date of the pooling
9 and servicing agreement?

10 A. The date on the pooling and servicing agreement was 2007,
11 yes.

12 Q. Okay. Based on your declaration that you submitted to the
13 Court -- and I have copy of it -- dated March 16 -- I'm sorry,
14 March 9 --

15 THE COURT: Okay, the declaration --

16 MS. ANIEL: Yes.

17 THE COURT: -- appears as the Trust's Exhibit A.

18 MS. ANIEL: Exhibit A. Yes, Your Honor.

19 THE COURT: Yes, okay?

20 Q. And you say that based -- your declaration says: "Based
21 either upon my personal knowledge of the debtors' operation,
22 information learned from a review of relevant documents, or
23 information I have received through my discussions with other
24 former members of the debtors' management or other employees of
25 the debtor, the liquidating trust, and the Borrower Trust's

1 professional consultants, if I were called to testify I would,"
2 and you are testify here the truth; is that correct?

3 A. Yes.

4 Q. Okay. What you said: "I am intimately familiar with the
5 debtors' claim reconciliation process. Except as otherwise
6 indicated, all statements in this declaration are based upon my
7 familiarity with the debtors' books and records, as well as the
8 debtors' schedule of assets and liabilities and statements of
9 financial affairs filed in this Chapter 11."

10 So you have familiarity with all those procedures and the
11 books of debtors assets?

12 A. I am familiar with the debtors' books and records, yes.

13 Q. Okay. So based on your statement that my loan was entered
14 the trust on or before the cutoff date of July 1st, 2007, and
15 you are saying that that was based on the pooling and servicing
16 agreement. Am I right?

17 A. The assignments that indicate it went to Deutsche Bank as
18 trustee along with the pooling and servicing agreement.

19 Q. Based on pooling. Did you read the pooling and servicing
20 agreement?

21 A. Not in its entirety, no.

22 Q. So what makes you think that the Aniel loan was put on
23 that particular date on 2007, what was the evidence to
24 provide -- there was a pooling and servicing agreement, right?
25 So the cutoff date is July 1st, 2007. So you insist that my

1 loan was put into the trust before cutoff date. The question
2 is, how did you know that my particular loan was into the trust
3 on the pooling and servicing agreement?

4 A. Generally, your servicing notes indicate an investor
5 number. And the investor number is tied to a pooling and
6 servicing agreement.

7 Q. Investor's number? Who is the investor of this trust?

8 A. The trustee is HSBC.

9 Q. Is there a list or schedule of mortgage loans that was
10 included in that pooling and servicing agreement?

11 A. I am -- I don't know.

12 Q. So you don't know?

13 THE COURT: May I ask this question?

14 THE WITNESS: Yes.

15 THE COURT: Your testimony that the Aniel loan was
16 included in this securitization trust was based on what, your
17 review of the servicing notes?

18 THE WITNESS: Yes. Well, the servicing notes have an
19 investor code number.

20 THE COURT: Yes.

21 THE WITNESS: And that code number is associated with
22 a pooling and servicing agreement. So that --

23 THE COURT: Okay, so you compared the investor number,
24 and that's how you determined that the Aniel loan -- is that
25 how you determined that the Aniel loan was included in this

1 specific securitization trust?

2 THE WITNESS: Yes, in the 2007 --

3 THE COURT: All right.

4 THE WITNESS: -- servicing agreement.

5 THE COURT: And did you look at any other documents,
6 as well, to support your conclusion that the Aniel loan was
7 included?

8 THE WITNESS: The assignments of the deed of trust
9 list the HSBC and the deal series number, which matches the
10 pooling and servicing agreement.

11 THE COURT: Okay.

12 All right, go ahead, Ms. Aniel.

13 BY MS. ANIEL:

14 Q. So you just -- your conclusion is based on the pooling and
15 servicing agreement, but when you go to the pooling and
16 servicing agreement, it doesn't say the mortgage schedule. It
17 just --

18 MR. WISHNEW: Objection, Your Honor. She's referring
19 to a document that's not before the witness.

20 THE COURT: Sustained.

21 Q. What about the prospectus -- supplemental prospectus.
22 Have you read it?

23 MR. WISHNEW: Objection, Your Honor. Relevance.

24 THE COURT: Sustained.

25 Q. Since you are familiar, and you are saying based on 2009

1 assignment of the deed, your conclusion says that it belongs to
2 the DALT 2007-OA5? Is that what your conclusion is?

3 A. Yes.

4 Q. Okay. Let's go to 2008 substitution of trustee.

5 MR. WISHNEW: Is there a specific exhibit number?

6 MS. ANIEL: Exhibit --

7 THE COURT: Just be patient, Mr. Wishnew.

8 MR. WISHNEW: My apologies, Your Honor.

9 MS. ANIEL: It's Exhibit E of the Trust.

10 THE COURT: Okay. We're looking at Trust Exhibit E --

11 THE WITNESS: Okay.

12 THE COURT: -- substitution of trustee. Do you have
13 that in front of you?

14 THE WITNESS: Yes.

15 THE COURT: Okay, go ahead.

16 Q. Okay. This exhibit says that in 2008 there was a
17 substitution of trustee executed by Mortgage Electronic
18 Registration System Inc., and signed by a certain Rosalie
19 Solano. And it was executed in Los Angeles and recorded in San
20 Mateo County, California where the property is located,
21 document number 2008-108476.

22 This was prepared by ETS Services, LLC, one of the debtors
23 in these bankruptcy proceedings. And it says here TS number
24 GL164602-C. And the loan number is 0713388492. Is that
25 correct information in the loan number and the TS number?

1 A. The loan number that's starting with 071 is the GMAC
2 Mortgage servicing loan number. I don't know what the TS
3 number refers to.

4 Q. Do you know the Aniels' original loan number on the deed
5 of trust on her promissory note? Do you know that?

6 A. I could look at it.

7 Q. Okay, we'll go on then. Okay?

8 What does it mean "substitution of trustee"? In September
9 29, 2008, it was still MERS -- it was still Mortgage Electronic
10 Registration System, Inc., without any mentioning on Mortgage
11 IT or HSBS as trustee DALT. They were the ones who substituted
12 the trustee in the name of ETS, meaning that as of September
13 2008, there's no evidence to prove that HSBC as trustee for
14 DALT 2007-OA --

15 THE COURT: No, no. You don't get to make arguments.
16 You get to ask questions. Ask a question, don't make an
17 argument.

18 MS. ANIEL: Okay.

19 Q. Why is it that Mortgage Electronic -- still Mortgage
20 Electronic Registration System, Inc. was the one who
21 substituted a trustee and recorded it? Why is it not the HSBC
22 as trustee for DALT 007-OA5 (sic).

23 A. Okay. So at this time, the deed of trust was still
24 located and sitting within the MERS system, and it wasn't
25 assigned out to HSBC until the later assignment of the deed of

1 trust. So this is just a substitution of the original trustee
2 that was on the deed of trust from Fidelity to ETS.

3 Q. Oh, so in other words, you testify here that my mortgage
4 was transferred to the trust in 2007. Isn't that supposed the
5 trustee will be the one to substitute that. They only know my
6 mortgage and deed as of 2007 July 1st. So why is it that my
7 previous -- the previous lender with this mortgage -- and you
8 know Mortgage IT is the lender --

9 THE COURT: Stop. You're making speeches.

10 Can you explain the chain of transfers of who the
11 trustee was, who it became? Can you do that for us?

12 THE WITNESS: Yes. So your original deed of trust
13 listed Mortgage IT as the original lender, and it also lists
14 MERS as the original nominee for the lender, so you can see
15 there's a MIN number attached to the deed of trust when it was
16 originated. That deed of trust sits within the MERS system,
17 the electronic registration system, until it needs to be
18 assigned out for a number of reasons: a default or a
19 bankruptcy.

20 So it was sitting in MERS. It doesn't mean that it
21 wasn't securitized in 2007. It just means that the deed of
22 trust was sitting still in the MERS system until it was
23 assigned out of MERS to HSBC.

24 THE COURT: Okay. Do you know why the trustee -- why
25 ETS was substituted as the trustee?

1 THE WITNESS: Yes. So when GMAC Mortgage would start
2 servicing a loan and it went into default or needed some other
3 reason for something to happen to the loan in servicing-related
4 terms, it would -- in a nonjudicial state you have to appoint a
5 substitute trustee from the original one. So the appointment
6 is done by MERS since the deed of trust is still registered
7 with MERS. And we appointed ETS, who acts as a nonjudicial
8 trustee for foreclosure-related activities.

9 THE COURT: All right. And do you know whether, at
10 the time the substitution of trustee was executed in September
11 2008, was the Aniel loan in default? Do you know from the
12 books and records of the debtors?

13 THE WITNESS: Yes, I believe it was.

14 THE COURT: Okay. Go ahead, Ms. Aniel.

15 BY MS. ANIEL:

16 Q. Why is it that HSBC as trustee was never mentioned in that
17 substitution of trustee in 2008 by MERS?

18 A. Because the deed of trust hadn't been assigned out of MERS
19 yet, which is not uncommon, that they -- the deed of trust
20 would sit within MERS until it needed to be assigned out for
21 some foreclosure-related activity.

22 MS. ANIEL: Do I always have to ask question, Your
23 Honor, to her?

24 THE COURT: Yes, you do. You have to ask questions.

25 MS. ANIEL: Okay.

1 Q. What was the reason why the original loan number of my
2 deed of trust and my promissory note were altered?

3 MR. WISHNEW: Objection, Your Honor.

4 THE COURT: I'm going to sustain the objection to that
5 question. But I think what Ms. Aniel is asking
6 about -- because I see this in her contentions, that there were
7 different numbers either assigned to the loan -- could you
8 explain why there were different numbers in various documents
9 for the Aniel loan?

10 THE WITNESS: Yes. So --

11 THE COURT: That's what you were trying to get at,
12 isn't it?

13 MS. ANIEL: Yes, Your Honor.

14 THE COURT: Okay, go ahead, Ms. Priore.

15 THE WITNESS: So the origination of your loan did not
16 happen with GMAC Mortgage or HSBC. So when it was originated
17 by Mortgage IT in June of 2007, Mortgage IT, as the lender,
18 assigned it a loan number. So that's the loan number that you
19 see on the top of your note. And you also see it on top of the
20 recorded deed of trust.

21 When the loan moves to a new servicer to service the
22 loan, GMAC Mortgage would assign it a servicing loan number.
23 So that's the loan number that you would see in correspondence
24 from GMAC Mortgage related to payment information, default
25 information.

1 THE COURT: Same loan but because GMAC is servicing
2 it, it assigns a new number to it?

3 THE WITNESS: Correct.

4 THE COURT: All right. And then what happen -- were
5 the subs -- when it's assigned to HSBC, is there a different
6 number that's assigned again, or --

7 THE WITNESS: GMAC Mortgage would keep the same loan
8 number the entire time. So --

9 THE COURT: The entire time that it services the loan?

10 THE WITNESS: It serviced the loan, yes.

11 THE COURT: Okay.

12 BY MS. ANIEL:

13 Q. Are you authorized to change the loan original mortgage?
14 Are you authorized, the loan servicer are authorized to alter
15 borrower's --

16 THE COURT: She didn't say she altered anything. She
17 said that GMAC assigned a number to the loan it was servicing.

18 Am I right on that?

19 THE WITNESS: Correct. Yes.

20 THE COURT: Okay. She didn't alter anything. GMAC
21 assigned a number to your loan at the time that GMAC began
22 servicing the loan.

23 The loan didn't change, right?

24 THE WITNESS: Correct.

25 Q. But it was -- does it -- did my deed of trust wording

1 allow that to change the loan number?

2 MR. WISHNEW: Objection.

3 THE COURT: No, it didn't change. Look, I understand,
4 you don't have a lawyer and I'm giving you leeway. But this
5 issue you've raised in your contentions about different loan
6 numbers it's a different party assigning a different number to
7 it for a different purpose. It's the same loan. The loan
8 didn't change.

9 When GMAC began servicing your loan, it assigned a
10 number to it. That was the number it used in its servicing
11 records. You have other issues that you can raise. This is
12 not a valid issue. Okay? You're wasting everybody's time on
13 this. Okay?

14 I'm giving you leeway to pursue it, but the different
15 numbers that were assigned for different purposes to the same
16 loan is not an issue in this trial.

17 MS. ANIEL: Yeah, I just want to let the Court know
18 that because of the --

19 THE COURT: I understand that they assigned a
20 different number to it. Okay? That's not a valid issue for
21 this trial. It's entirely clear from the record what happened
22 here. You have different issues. It's not over what number
23 they used to keep track of your loan and the loan payments and
24 when it was in default and what they did after that. Okay?

25 MS. ANIEL: Okay --

1 THE COURT: I don't want to lose my patience with you,
2 but you need to confine your questioning to proper issues
3 raised by the pre-trial order and by my prior opinion. Okay?

4 Whether they assigned a number for purposes of
5 servicing the loan is not among the issues.

6 MS. ANIEL: Okay, I understand what you're saying.
7 But my perspective is totally different. That's why we have a
8 trial.

9 THE COURT: Your perspective may be different, but
10 it's not the perspective of what the issues for this trial are.
11 Okay? I'm willing to give you leeway, so long as you confine
12 your questioning to the issues relevant to this trial -- the
13 issues in this trial.

14 MS. ANIEL: Okay, let's go to 2009.

15 BY MS. ANIEL:

16 Q. Assignment of the deed. The assignment -- do you have
17 that in front of you?

18 A. Which exhibit number is that?

19 THE COURT: It's Exhibit F.

20 Q. In 2009, it was recorded number -- the assignment of the
21 deed of trust 2009-125757. It was recorded on 9/21/2009. And
22 it was signed by certain Janine Yamoah, executed in August 24,
23 '09. And it was notarized by certain Zahirah Sweet on August
24 24, '09. The question is that do you know Janine Yamoah?

25 A. I do not.

1 Q. Is she an employee of GMAC?

2 A. Are you were asking if she was an employee at the time --

3 Q. Of GMAC?

4 A. -- that she signed it? I don't have those records in
5 front of me to verify that.

6 Q. Do you know Zahirah Sweet?

7 A. What's the --

8 Q. Do you know her, the notary public?

9 A. I don't personally know her; no.

10 Q. Is she an employee of GMAC in Pennsylvania?

11 A. And I don't have those records in front of me right now,
12 but I believe that we talked about them in one of the earlier
13 declarations or the original objection. But I would need to
14 look at that.

15 Q. Have you reviewed this 2009 assignment of the deed?

16 A. I have it right here, yes.

17 Q. You did?

18 A. Yes.

19 Q. So you said you are familiar with all the books and
20 records of the debtors. Is that correct contention?

21 A. Yes.

22 Q. So in other words, you don't recognize Janine Yamoah as an
23 employee of GMAC in Pennsylvania?

24 A. In 2009, GMAC Mortgage probably had 3- or 4,000 employees.
25 I don't personally know her.

1 Q. Did you ever inquire if Janine -- because this is
2 important. Did you even inquire --

3 THE COURT: Don't tell me what's important. Ask
4 questions.

5 Q. Did you inquire if Janine is an employee of GMAC in
6 Pennsylvania?

7 A. Yes. So during the original -- original objection
8 process, I reviewed all of these documents that we attached as
9 exhibits, and I would have verified that these people worked at
10 GMAC. What I don't know right now as I sit here, are they
11 dates of her employment. But she would have worked for GMAC
12 Mortgage at the time this was done, because we were the
13 servicer, at this time.

14 THE COURT: All right. You, at the time -- because
15 you provided the declaration in support of the original
16 objection, correct?

17 THE WITNESS: Yes.

18 THE COURT: And this was one of the exhibits that you
19 included?

20 THE WITNESS: I believe so.

21 THE COURT: All right. And did you check the records
22 to verify that Janine Yamoah was an employee of GMAC at the
23 time she signed the assignment of deed of trust?

24 THE WITNESS: Yes.

25 THE COURT: Okay.

1 Q. What about Zahirah Sweet?

2 THE COURT: Seal -- Sweet -- okay, I'm sorry. It's
3 the notary, Zahirah Sweet.

4 Q. Is she also an employee of GMAC?

5 A. The normal process -- and I did not work in the
6 foreclosure area -- but the normal process was the notaries
7 were also employees of GMAC Mortgage. I know that when I did
8 the original objection, I would have verified that Janine had
9 authority for MERS to do an assignment.

10 THE COURT: What would you do to verify that?

11 THE WITNESS: MERS would grant signing authority to
12 individuals at GMAC Mortgage through a -- I think it's called a
13 corporate secretary certificate. And they would list employees
14 who had authority, at that time, to sign for MERS.

15 THE COURT: And was that part of the books and records
16 of GMAC?

17 THE WITNESS: Yes.

18 THE COURT: And did you look at those records to
19 confirm that Janine Yamoah was an authorized signatory?

20 THE WITNESS: Yes, at that time, in 2009. Yes.

21 Q. So you review and read all this contents of the 2009
22 assignment of the deed? Isn't that it?

23 A. I have reviewed this assignment, yes.

24 Q. Is there any defect that you noticed in this 2009
25 assignment of the deed of trust?

1 A. You're asking me if it's defective?

2 THE COURT: Yeah, she's asked do you know of any
3 defect in Exhibit D, this assignment of a deed of trust?

4 A. No.

5 Q. I thought you review and read this, and you did not see
6 anything?

7 MR. WISHNEW: Objection, Your Honor. Asked and
8 answered.

9 THE COURT: Overruled.

10 Q. Can you read the notary public information, start from
11 "State of Pennsylvania"?

12 A. You want me to read this entire paragraph?

13 THE COURT: She doesn't have to read it. I can read
14 it. I see it in front of me.

15 MS. ANIEL: Okay, thank you.

16 THE COURT: Ask your question. It's not a reading
17 contest. Okay, if you have a question about the notary stamp,
18 ask it.

19 Q. You didn't notice any defect on this notary that was
20 executed by the notary public? You didn't notice anything?

21 MR. WISHNEW: Objection, Your Honor. Asked and
22 answered.

23 THE COURT: Overruled.

24 A. I can see that it was notarized by Zahirah Sweet in the
25 State of Pennsylvania, in the County of Montgomery. I do

1 understand that there's a line underneath that says this was
2 under the law of the State of California. That I -- the State
3 of -- this was prepared by counsel in California, and that
4 would generally have just been a typo, instead of California,
5 it should have been Pennsylvania.

6 THE COURT: Well, it was filed in California, right?

7 THE WITNESS: It was recorded in California, yes.

8 THE COURT: Recorded in California.

9 THE WITNESS: Right.

10 MS. ANIEL: So I have to ask a question, Your Honor.

11 THE COURT: Yes, you have to ask a question.

12 MS. ANIEL: Okay.

13 Q. So they think it was okay, it was notarized in
14 Pennsylvania, and it was under perjury under the California?
15 Do you think this would not make the document void?

16 A. I don't believe so. It was recorded -- the original was
17 recorded in the County of San Mateo in California.

18 Q. Okay. So in other words, the assignment of the deed for
19 value received in 2009, did you --

20 MS. ANIEL: I will reserve that question, because this
21 is for -- okay.

22 Q. Is there money involved in this assignment of the deed in
23 2009? Do you know?

24 THE COURT: I don't understand your question.

25 MS. ANIEL: It says on the assignment of the deed in

1 2009, Your Honor, "For value received, the undersigned hereby
2 grants, assigns, and transfers to HSBC Bank, USA National
3 Association as trustee for DALT 2007-OA5, all beneficial
4 interest under that second deed of trust."

5 THE COURT: I see what it says. What's your question?

6 Q. My question is, is there any money consideration that
7 was -- are you aware if there's a money consideration given to
8 MERS from HSBC? Are you aware of that?

9 A. I am not.

10 Q. You are not aware. Okay. So in --

11 MS. ANIEL: Just question, Your Honor, right? I just
12 ask questions.

13 THE COURT: Just questions, yes.

14 MS. ANIEL: Okay. You have to remind me sometimes,
15 you know.

16 Q. Okay, let's go 2011. Assignment of the deed, which is
17 now -- that's why we are here at trial because of this 2011
18 assignment of the deed that was signed by Mira Smoot.

19 THE COURT: Looking at Exhibit G?

20 MS. ANIEL: Yes -- yeah, I think it's, yeah, G, Your
21 Honor.

22 THE COURT: G, okay.

23 MS. ANIEL: That's the Trust exhibit.

24 Q. So there was another assignment of the deed of trust that
25 recorded number 2011-016800, recorded on February 9, 2011,

1 executed by Mira Smoot on February 1st, 2011. And it was
2 notarized in the State of Pennsylvania, County of Montgomery,
3 by certain Mary Lynch, whose notary expiration date was
4 November 3, 2014.

5 My question to you, Kathy, are you aware if there
6 is -- you are an employee and you are familiar with the books
7 and records of the debtor. Did you review this also, the 2011
8 assignment of the deed?

9 A. Yes.

10 Q. Are you aware that GMAC Mortgage is trying -- is paying
11 HSBC as trustee?

12 THE COURT: Can you say that again? I didn't hear the
13 question?

14 Q. Are you aware if there is a money changed by consideration
15 in this assignment of the deed of trust in 2011?

16 A. GMAC Mortgage was acting as the servicer for the loan at
17 this time. I'm not sure I understand your question.

18 Q. Understand it because it says here: "For value received,
19 the undersigned corporation hereby grants assignment and
20 transfers to GMAC Mortgage LLC, formerly known as GMAC Mortgage
21 Corporation, all beneficial interests, under the certain deed
22 of trust dated 6/4/2007, executed by the Aniells."

23 So is there a money consideration involved in this
24 assignment of the deed of trust way back in 2011?

25 A. You're -- are you asking me if GMAC Mortgage received

1 money from HSBC?

2 Q. No.

3 THE COURT: Paid money.

4 A. Paid money? No.

5 Q. No, well, what my understand -- what I'm saying is that

6 HSBC sold the beneficial interest to GMAC in 2011. So is there

7 a money exchange between HSBC as trustee for DALT 2007-OA5 to

8 GMAC Mortgage, LLC. Is there a money transferred?

9 A. No. The pooling and servicing agreement would generally

10 allow the trustee to appoint its subservicer to conduct the

11 foreclosure on its behalf. There wouldn't have been a -- it

12 wasn't being sold -- the loan wasn't being sold to GMAC

13 Mortgage. The deed of trust was just being assigned to them to

14 complete the foreclosure.

15 Q. So your under --

16 THE COURT: Did the beneficial ownership of the

17 mortgage change? It was just who the trustee was that was

18 going to go ahead and attempt to foreclose?

19 THE WITNESS: Right. The assignment of the deed of

20 trust for foreclosure purposes. But the loan itself including

21 the note didn't transfer to GMAC Mortgage.

22 Q. So the assignment of the deed of mortgage is just

23 transferring anything without any money consideration?

24 MR. WISHNEW: Objection, Your Honor. It

25 mischaracterizes the testimony.

1 THE COURT: Overruled.

2 A. There wouldn't have been a payment to -- from HSBC to GMAC
3 Mortgage, no.

4 Q. So what is the purpose of this assignment of the deed if
5 there's no money consideration exchanged between HSBC and GMAC?
6 What was the purpose of this?

7 A. The purpose of the assignment of the deed of trust is to
8 assign the deed to the servicer to conduct the foreclosure on
9 its behalf.

10 Q. So the assignment of the deed -- the purpose of the
11 assignment of the deed is to transfer --

12 THE COURT: Don't repeat her -- she answered your
13 question. Ask another question. She just answered your
14 question.

15 Q. How long Mira Smoot works for GMAC?

16 A. I will have to look back at the exact dates. Is there a
17 document you want me to look at? I know she --

18 THE COURT: She's going to be here to testify.

19 THE WITNESS: Right.

20 THE COURT: Do you know how -- without looking at the
21 documents, do you know how long she worked for GMAC?

22 THE WITNESS: She worked for GMAC until the sale to
23 Ocwen in February of 2013.

24 Q. Would you go to Exhibit -- there's an exhibit that you put
25 the -- how do you call that -- Mira Smoot's information. Okay,

1 let's go to --

2 THE COURT: Exhibit H.

3 THE WITNESS: Okay.

4 MS. ANIEL: H.

5 Q. Maybe you could recall? You blacked out some information
6 here, but it says, appointment held, GMAC Mortgage LLC, and
7 then quick reference for GMACM, Mortgage, and it says category
8 3 authorized officer as of August 9, 2010 ended 2/15/2013.

9 And then and under here it says category 4 authorized
10 officer on August 9, 2010 ended on 2/15/2013. Is this the
11 history -- employment history of Mira Smoot?

12 A. It's not her entire employment history. This is related
13 to authority she had as an authorized officer of GMAC during
14 these time periods. She was employed by GMAC before 2010.

15 THE COURT: May I ask you, where does this individual
16 profile come from?

17 THE WITNESS: It's from our corporate secretary's
18 office. So they keep track of signing authority for
19 individuals at different subsidiaries.

20 THE COURT: All right. And what's redacted out from
21 the copy that --

22 THE WITNESS: Those would be other subsidiary or
23 affiliate companies for which she had authority for some level.

24 THE COURT: But everything in this document, Exhibit
25 H, relates to Mira Smoot, right?

1 THE WITNESS: Yes.

2 THE COURT: And what you've left in here is what her
3 authority was for GMACM?

4 THE WITNESS: Correct, yes.

5 Q. Is Mira Smoot -- isn't Pennsylvania office where she
6 signed this 2011 --

7 THE COURT: When she signed what?

8 Q. When she executed it, was she in Pennsylvania at that
9 time?

10 A. Yes. Our primary office, for this area -- and you can see
11 it above in the profile -- was the Fort Washington,
12 Pennsylvania address.

13 Q. Then let's look at the 2009 assignment of the deed again.

14 THE COURT: I'm sorry, what exhibit do you want to
15 look at?

16 Q. Okay, why is -- why is --

17 THE COURT: What exhibit are you looking at?

18 MS. ANIEL: We're looking on Exhibit F, Your Honor.

19 THE COURT: Okay, that's fine.

20 THE WITNESS: Okay.

21 Q. Okay, why is it that only in 2009, MERS
22 Electronic -- Mortgage Electronic Registration System, Inc.,
23 solely as nominee for Mortgage IT was only able to transfer
24 that beneficial interest to HSBC? Isn't that -- they're
25 supposed to do that in 2007, as you insisted that the loan on

1 your loan was on the trust for 2007? Why was the -- what was
2 the reason why in 2009, the MERS just only assigned, executed
3 by certain Janine Yamoah, recorded in September 21, 2009, why
4 is it only on that year that it was assigned? Isn't that
5 suppose -- you insisted that the loan of Aniel was in
6 2007 -- July 1st, 2007, and the cutoff date is July 1st, 2007,
7 isn't that suppose -- the one who is going to transfer that is
8 HSBC?

9 A. Well, this goes back --

10 Q. Can you answer that?

11 A. This goes back to what I said a little bit ago related to
12 the deed of trust sitting in the MERS system until it was
13 recorded out.

14 Q. What do you mean sitting -- what do you mean sitting in
15 the MERS? Is it idle there? It was idle? What do you mean by
16 sitting? Can you tell me -- can you tell the Court what it
17 means, sitting?

18 A. Your deed of trust, originally originated by Mortgage IT,
19 listed MERS as the original nominee. When you sign that
20 original deed of trust, it is registered with the MERS system.
21 The MERS system is an electronic registration where the deed of
22 trust would sit until it needed to be assigned out in the
23 public records to whoever the trustee was or the servicer,
24 whoever was going to conduct some activity on the deed of
25 trust.

1 Q. Why only in in 2009, for two years from 2007, why only the
2 2009 was done by MERS, it was just lying on the MERS system?
3 So why is it not in 2008? Why is it it took two years?

4 THE COURT: Just ask a simply question, okay?

5 Q. Why is it it took two years --

6 THE COURT: Why wasn't it assigned until 2009?

7 THE WITNESS: Sure. Loans -- deeds of trust normally
8 sit in the Mortgage Electronic Registration system until
9 something needs to happen. So it could be that loans could sit
10 for ten years in MERS and not get assigned out. This one
11 happened to not need any activity to happen with -- related to
12 a foreclosure or a bankruptcy or something like that, until
13 2009.

14 Q. So isn't that -- the only reason why MERS was transferred
15 it in 2009, when the Aniel loan was in default? Is that the
16 reason why MERS transferred it to HSBC as trustee in 2009? Is
17 that one of the reason also?

18 A. That would be one of the reasons, right, that some
19 activity needed to take place, and they needed to assign it out
20 of MERS to do -- take some foreclosure-related activity.

21 Q. Is the deed of trust and the note of Aniel -- was the
22 original deed of trust and the note of Aniel was on
23 the -- sitting on the MERS, Mortgage Electronic, from 2007 to
24 2009?

25 A. The deed of trust is registered with MERS.

1 Q. The original deed of trust and the original note of this
2 Aniel loan was just sitting there between 2007 and 2009 in the
3 MERS?

4 A. A promissory note is not assigned into MERS. The
5 promissory note is not going to be recorded anywhere. So the
6 deed of trust which was -- the original would have been
7 recorded in the county records, and then because you signed it
8 as an original MERS loan, it sits there until it needs to get
9 assigned out in the public records.

10 Q. My question is that what was the reason why MERS held that
11 original deed of trust --

12 THE COURT: Okay, asked and answered. Let's move on.

13 Q. Do you know where is the promissory note goes?

14 A. The pro -- yes.

15 Q. Do you know where?

16 A. The promissory note, the original, is held in a collateral
17 file held by a custodian.

18 Q. Who is the custodian?

19 A. I don't know the custodian of the note today, because I'm
20 not the servicer.

21 Q. Do you know the custodian is Fidelity?

22 A. The custo -- I don't know if that's the custodian today.
23 I don't know.

24 Q. So you're testifying here that you have familiar with the
25 documents --

1 THE COURT: Who the custodian of the note is today is
2 not relevant to this proceeding. Ask your next question.

3 MS. ANIEL: The next question, Your Honor, is that the
4 reason why I'm asking -- probably you don't like to
5 hear -- because of her credibility. The witness'
6 credibility --

7 THE COURT: Please ask questions.

8 Q. So you -- so you testify in this court that the original
9 deed of trust was on MERS, just sitting down and --

10 THE COURT: Okay, stop -- stop for a second. More
11 than a second.

12 You get to cover your questions once. You don't keep
13 going over the same ground multiple times. If you have new
14 questions that you wish to ask Ms. Priore, you can do that.
15 Otherwise finish your questioning.

16 MS. ANIEL: Okay, so just direct question that the
17 cross -- okay.

18 Q. Okay. Let's go to -- to 2011 Exhibit -- assignment of the
19 deed, Your Honor, that was signed by Mira Smoot. Is she an
20 authorized --

21 THE COURT: This is back to Exhibit G?

22 MS. ANIEL: Yeah, Exhibit G.

23 THE COURT: Okay, go ahead.

24 Q. Is she authorized officer of HSBC Bank USA?

25 A. Mira Smoot was an authorized officer of GMAC Mortgage.

1 Q. Okay.

2 A. She had -- HSBC gave power of attorney to GMAC Mortgage to
3 sign documents on its behalf. So from the company profile we
4 talked about before, you can see she had an authorized officer
5 designation next to her during this time period.

6 Q. So in other words, with the limited power of attorney that
7 was signed by Susie Moy, giving all the rights to the employee
8 of GMAC to sign as an authorized HSBC? So any employee could
9 just sign on behalf of that limited power of attorney that was
10 given to you, to the debtors?

11 A. Do you want me to look at the power of attorney?

12 Q. No, just say --

13 THE COURT: Can you tell me this?

14 MS. ANIEL: Yes.

15 THE COURT: In Exhibit H --

16 THE WITNESS: Yeah.

17 THE COURT: -- Ms. Smoot was listed as "authorized
18 officer". What does that term authorized officer mean?

19 THE WITNESS: It generally --- and I -- and I don't
20 know the specifics. But they would have authority
21 to -- categories were different levels of documents that they
22 could execute. But the power of attorney doesn't list out what
23 your title had to be. It did give people at GMAC Mortgage who
24 had -- who were authorized officers to sign documents on their
25 behalf.

1 THE COURT: Is it your understanding that Mira Smoot,
2 as a category 3 and category 4 authorized officer of GMAC was
3 authorized to sign documents which HSBC had granted a limited
4 power of attorney to GMAC?

5 THE WITNESS: Yes. There's a whole listing of
6 documents that they would allow us to sign in that power of
7 attorney, and an assignment --

8 THE COURT: And --

9 THE WITNESS: -- was one of those.

10 THE COURT: -- and somebody who was a category 3 and
11 category 4 authorized officer of GMAC could sign whatever
12 documents HSBC had authorized in the limited power of attorney?

13 THE WITNESS: Yes.

14 THE COURT: Okay.

15 BY MS. ANIEL:

16 Q. Does HSBC give authority to Mira Smoot -- special power of
17 attorney to sign on behalf of the trust?

18 A. They -- the power of attorney is general in nature. It
19 doesn't give individual people, it gives employees of GMAC
20 Mortgage authority.

21 Q. Can you explain what is that category 3 and category 4?
22 Can you differentiate that --

23 A. No, I --

24 Q. -- authorize?

25 A. -- I can't. I don't know.

1 Q. On this deed of trust, you know, if I have go to through
2 my loan history -- familiar with the loan history? It's on my
3 exhibit -- I think that's number 3.

4 MS. ANIEL: You go by Exhibit 3, Your Honor, on my
5 list.

6 THE COURT: Okay, so Aniel Exhibit 3. It's in volume
7 1. You'll have to bring up a copy to Ms. Priore.

8 MS. ANIEL: You have a copy of that? I give you a
9 copy of that.

10 THE COURT: Somebody will have to bring it up.

11 There is no copy in front of the witness.

12 MS. ANIEL: Your Honor, I provided --

13 THE COURT: Okay, they'll bring -- but wait until the
14 witness gets a copy, okay? It's in volume 1.

15 MS. ANIEL: I think I have it. I have it.

16 THE COURT: That's the right one? Bring it up. Go
17 ahead.

18 It's Exhibit 3. Do you have that in front of you now?

19 THE WITNESS: Yes.

20 THE COURT: Okay, go ahead, Ms. Aniel.

21 BY MS. ANIEL:

22 Q. You provided a part of the loan history and it was filed
23 on February 15 -- I'm sorry, it was filed on April 10th, '15,
24 docket number 8475-3.

25 THE COURT: We all have it in front of us. Go ahead.

1 A. Yep, I have it.

2 Q. You have it, right?

3 A. Yes.

4 Q. Okay. Thank you. One of the -- on the pages of this long
5 history, I find it so odd that I put that in my pre-trial
6 document that I filed in the court, that says that -- if you
7 could see the -- so much document, Your Honor, I have to --

8 There was mention in 2009 that there was no assignment of
9 the deed of trust -- there was assignment of deed of trust from
10 MERS and then --

11 THE COURT: I don't understand what you just said.

12 MS. ANIEL: No, on the loan history, Your
13 Honor -- this is the history of my loans, okay, between 2007
14 and 2013. Okay? And it has pages of 264.

15 THE COURT: Yes, 262.

16 MS. ANIEL: Yeah. Mine is 264. There is --

17 THE COURT: Look in the lower right-hand corner. What
18 does it say?

19 MS. ANIEL: Oh, it says, Your Honor, 262 -- probably
20 it's included all those other exhibit.

21 THE COURT: Go by those -- if you want to refer to
22 pages, in the lower right corner --

23 MS. ANIEL: 264. It says page --

24 THE COURT: It says 7 of -- I'm looking -- it says of
25 262. Do we have the same document?

1 THE WITNESS: I have 262, yes.

2 MS. ANIEL: I know I have that but due to --

3 THE COURT: The loan history pages, in what's marked
4 as Exhibit 3 in your binders shows the page number of 262
5 pages. I want to be sure we're all looking at the same
6 documents.

7 MS. ANIEL: I don't have the -- I didn't make a copy
8 of my pre-trial motion, Your Honor, but what it says is
9 identified --

10 THE COURT: Ms. Aniel, do you have Exhibit 3 in front
11 of you?

12 MS. ANIEL: Yes, but --

13 THE COURT: Look in the lower right-hand corner. What
14 does it say? Lower right-hand corner of the page?

15 MS. ANIEL: Oh, it says --

16 THE COURT: It says page something of what?

17 MS. ANIEL: 26- page something -- it says 262.

18 THE COURT: 262. Okay.

19 MS. ANIEL: Yes.

20 THE COURT: We're all looking at the same document.
21 So when you want to refer to specific pages, refer --

22 MS. ANIEL: Yeah, I put -- is there any way can I
23 borrow your copy of the pre-trial motion, because I put that.

24 THE COURT: Ms. Aniel, this is the exhibit. This is
25 what you got to use. It's the exhibit that the Court has.

1 That's what you need to use. If there's something -- they're
2 dated. The entries are dated, if there are specific entries
3 you want to look at.

4 MS. ANIEL: There was -- I don't know what page of
5 that, Your Honor, but it's my duty to do that, forgive me for
6 not being --

7 (Pause)

8 MS. ANIEL: Can we -- I don't have the pre-trial
9 motion, that I could go through, Your Honor.

10 THE COURT: I don't know what pre-trial motion you're
11 talking about.

12 MS. ANIEL: No, because it says there on my
13 exhibit -- my under penalty, my information, it says go to page
14 149. Because the one that I have is just like totally a lot of
15 documents that are totally the same and the same date and
16 totally the same. So there -- it's easier for me to point it
17 out, Your Honor. I really apologize for not bringing that.

18 I think I have it. Okay. I have a copy, Your Honor.
19 I'm sorry. This is on pre-trial order, which is 122 -- I just
20 print it out. But my statement here, my claim of description
21 of nature of the case, I included -- my note says that --

22 THE COURT: What number are you looking at?

23 MS. ANIEL: Okay, I'm still looking, Your Honor. Oh,
24 here, here, Your Honor.

25 Let's go to page 7.

1 THE COURT: You have paragraphs numbered. What
2 paragraph number?

3 MS. ANIEL: Paragraph 42.

4 THE COURT: What does that have to do with the loan
5 servicing notes? As I say, what -- your contentions or a
6 description of the case is not evidence. And that doesn't
7 refer to the loan.

8 MS. ANIEL: But I just want to --

9 THE COURT: If you want to refer to something in the
10 loan servicing notes, refer to the loan servicing notes.

11 MS. ANIEL: Okay. Let's go to page 9, Your Honor. I
12 think this the one.

13 THE COURT: I'm sorry, page what?

14 MS. ANIEL: 9 of 22, at paragraph 54.

15 THE COURT: So you want to look at the entry for July
16 27th, 2009?

17 MS. ANIEL: You go to page 235.

18 THE COURT: Okay, the entries in the loan servicing
19 notes for July 27, 2009, it appears to me, that they are at
20 page 235 of 262.

21 THE WITNESS: Yes, I found them.

22 THE COURT: Mr. Wishnew, see if you can help Ms. Aniel
23 out and find it.

24 MS. ANIEL: Thanks.

25 BY MS. ANIEL:

1 Q. Okay, under the loan history --

2 MS. ANIEL: I'm sorry. Okay.

3 Q. Under the loan history, Your Honor, there was a -- there
4 was a statement here --

5 THE COURT: I don't want to know. If you have a
6 question of the witness, go ahead and point her to it. I don't
7 want to hear argument. I don't want to hear your testimony.
8 You'll get a chance.

9 Q. Okay, the question --

10 THE COURT: If you have a question about an entry --

11 MS. ANIEL: Yeah.

12 THE COURT: -- on the loan servicing notes for July
13 7th (sic), 2009, go ahead and ask it.

14 Q. Can you tell me why in 2009, July 27, 2009, that I am
15 still waiting for the assignment to be signed and notarized?
16 Can you tell me why in July 2009, they are still waiting for
17 the assignment of the deed to be signed and notarized?

18 A. I am not sure I understand the question. You're asking
19 why they're waiting? I don't know. I mean --

20 Q. Are you aware of that? Did you read this loan history?

21 A. I can read the entries that are on July 27th.

22 THE COURT: May I ask you this?

23 THE WITNESS: Yes.

24 THE COURT: What is the transaction type BKR?

25 THE WITNESS: Yeah. So that means that this was

1 related to a bankruptcy. So --

2 THE COURT: The Aniels' bankruptcy in California?

3 THE WITNESS: Yes. Yeah. So they're coded by either
4 foreclosure or correspondence or bankruptcy. So this -- it
5 appears that this entry is talking about the assignment needed,
6 likely related to the bankruptcy that the Aniels had filed.

7 THE COURT: Okay.

8 Q. The reason of the 2- -- is the reason of 2009 assignment
9 of the deed, is the reason why you have to execute the debt,
10 just to show to the judge that you have an assignment of the
11 deed in order to file a proof of claim on Aniels' bankruptcy?

12 A. Right. So as I had mentioned before, the assignment of
13 the deed of trust normally happens because of foreclosure or a
14 bankruptcy activity is taking place. And if you look at this
15 note from July 27th, it appears that the assignment was being
16 done related to the bankruptcy.

17 Q. According to this statement there, it's currently waiting
18 for assignment to be signed and notarized. Once that has been
19 completed, we will continue to process. That was the statement
20 here in July 27, 2009. In other words, it was not -- there was
21 no assignment of the deed as of July 27, 2009. The only reason
22 that they have that is to -- for foreclosure -- for proof of
23 claim that GMAC is initiating on Aniel bankruptcy in 2009.

24 And then if you read in 20- -- if you read on August -- go
25 in (a) August 5, 2009, it says here why is it that they have to

1 create an assignment of deed for signature and recordation at
2 cost of 100 dollars? What is it that GMAC would pay 100
3 dollars just to create this 2009 assignment of the deed of
4 trust and record it? What if -- why do you have -- why do you
5 have to let someone create the assignment of the deed in 2009
6 on August 5th? And remember on August 5th, that was -- August
7 24th, it was executed by certain Janine --

8 THE COURT: Okay, stop. Tell me how this question
9 relates to one of the four issues to be tried listed on page 16
10 of the pre-trial order?

11 MS. ANIEL: Because the 2009 assignment of deed was
12 fabricated, manufactured, Your Honor. And --

13 THE COURT: Look at the pre-trial order that you
14 signed and it lists the issues to be tried under (V) on page
15 16. There are four issues listed there.

16 First: 1) whether Mira Smoot had sufficient authority
17 to execute the 2011 assignment as an authorized officer of
18 HSBC. 2) Whether GMACM and ETS had sufficient authority to
19 commence the foreclosure action against the property when it
20 caused the notice of default to be recorded on April 27, 2012.
21 3) The extent of actual damages, if any, proximately caused to
22 the claimants by GMACM's and ETS's alleged wrongful foreclosure
23 of the property in April 2012 under the theories of wrongful
24 foreclosure, fraud, and unlawful competition law. 4) The Court
25 to declare whether the assignment of deed of trust is void.

1 Those are the only issues that are in this trial. I
2 tried to give you leeway in what you question about. You've
3 strayed well beyond those issues.

4 MS. ANIEL: In 2011, it was part of 2009 assignment of
5 the deed, Your Honor. If the 2009 assignment of the deed is
6 fabricated and manufactured, based on the evidence that we
7 have --

8 THE COURT: Okay, here's what we're going to do.
9 We're going to --

10 MS. ANIEL: When --

11 THE COURT: Stop. Stop. We're going to recess for
12 lunch until 1:30. During the lunch break, Ms. Aniel, you need
13 to go over your questions and you need to be sure that your
14 questions specifically are focused on the issues that are to be
15 tried. Okay? We're not rehashing your entire loan history,
16 the history of your bankruptcy, all that went before. We're
17 here -- I've already ruled in a prior opinion about most of the
18 claims that you asserted.

19 Most of the -- the objection was sustained to most.
20 It was overruled with respect to specific claims all focused on
21 the validity of the 2011 assignment and the 2012 notice of
22 default, and what, if any, damages you suffered if there was
23 any wrongful conduct.

24 We're going to take a recess now. When you come back
25 at 1:30, you need to be sure to focus your questions on the

1 issues that are part of this contested matter. We'll resume at
2 1:30.

3 MS. ANIEL: Thank you, Your Honor.

4 (Recess from 12:23 p.m. until 1:37 p.m.)

5 THE COURT: All right, please be seated.

6 Ms. Priore, you know you're still under oath.

7 THE WITNESS: Yes.

8 THE COURT: Okay. Ms. Aniel, go ahead.

9 RESUMED DIRECT EXAMINATION

10 BY MS. ANIEL:

11 Q. Kathy, you mentioned before we go on break that the
12 original deed of trust was just sitting in 2009 on MERS. Can
13 you explain to me what is MERS means, Mortgage Electronic
14 System -- what are this MERS's duties?

15 A. The duties of MERS?

16 Q. Yes, why is it that my deed of trust, the original deed of
17 trust was sitting -- in 2009, was sitting for a period of two
18 years, according to your testimony, it was just sitting there
19 with MERS? Is there any reason why?

20 MR. WISHNEW: Objection, Your Honor, as to relevance.

21 THE COURT: Sustained.

22 MS. ANIEL: Your Honor, I would --

23 THE COURT: Ask your next question.

24 Q. Mortgage Electronic -- is Mortgage -- is MERS also a
25 beneficiary -- who is the beneficiary of MERS on Aniels' deed

1 of trust? Do you know?

2 THE COURT: That question doesn't make sense.

3 Q. Isn't that MERS is the --

4 THE COURT: Could you explain what MERS is?

5 THE WITNESS: Yes. So MERS --

6 THE COURT: Just listen carefully. Okay? She'll
7 explain to you what MERS is. Okay?

8 THE WITNESS: So MERS is nothing more than electronic
9 registration system. Your original deed of trust that you sign
10 gets sent to the county to be recorded. It also gets
11 registered on the MERS system. MERS was generally created to
12 track when mortgages or deeds of trust would be transferred to
13 different beneficiaries. So the original deed of trust is
14 recorded. It's registered in MERS. And then, as you know, it
15 gets assigned out, out of MERS, to whoever the beneficiary is
16 at that time, and in this case it was HSBC.

17 Q. So your testimony says it's just a register system, that
18 MERS has a company and an office that handles this original
19 deed of trust?

20 A. MERS does not get the original deed of trust. The
21 original deed of trust is sent to whichever county it needs to
22 be recorded in. Then the original that comes back from the
23 county is put with the collateral file, just like I mentioned,
24 it's put with the original note. The registration system only
25 tracks when the deed of trust is transferred or sold to other

1 beneficiaries.

2 Q. So the deed of trust is with -- with MERS?

3 A. No. The original deed of trust is in a collateral file
4 with the custodian. MERS is an electronic registration system
5 only. It doesn't hold original documents.

6 Q. So I asked you before where is the original deed of trust.
7 You said it's with MERS sitting down. So now you're changing
8 your --

9 THE COURT: No, she's not changing it.

10 Q. -- testimony?

11 THE COURT: No.

12 Q. And you also mentioned the promissory note was with the
13 custodian. And I asked you who is the custodian, and you said
14 you don't know.

15 THE COURT: Ms. Aniel, I'm giving you leeway because
16 you're not represented by an attorney. Okay? But that only
17 goes so far. Okay?

18 Ms. Priore has testified, I think, quite clearly. I
19 understand the concepts may be difficult. What I understood
20 her to say -- she'll correct me if I'm wrong -- that the
21 promissory note does not go to MERS. It's held by whoever
22 either owns the note or a custodian for it. So when the note
23 was originally signed, the original lender would have had it.
24 When the note was transferred, it would have gone to the
25 transferee or a custodian holding it for the transferee.

1 Is that essentially correct?

2 THE WITNESS: Yes, that's correct.

3 THE COURT: Okay. So the note does not go -- MERS
4 doesn't get the note. MERS never had the note. MERS never
5 gets the notes. Okay? The note is either held by the owner of
6 the note or by a custodian for the owner of the note.
7 Typically, if it's in a securitization trust, it's a custodian
8 that's holding the note.

9 Is that correct?

10 THE WITNESS: Yes.

11 THE COURT: Okay. The deed of trust has to be
12 recorded. Okay? And MERS is identified as the beneficiary
13 when it's involved. Is that correct?

14 THE WITNESS: Yeah, so it'll say directly on your deed
15 of trust whether MERS is going to -- whether it's going to be
16 registered with MERS or not.

17 THE COURT: Okay.

18 MS. ANIEL: So therefore, Your Honor, this is part of
19 my exhibit.

20 THE COURT: It's not part of this case.

21 MS. ANIEL: It is important, Your Honor.

22 THE COURT: You're telling me it's important, and I'm
23 telling you I'm listening to the evidence. You ask questions
24 of this witness. The questions have to be related to the four
25 issues that have been identified and agreed upon as the issues

1 for this trial. Proceed.

2 I'm not going to sit here and let you wander all over
3 the place asking questions that don't bear on the issues. Go
4 ahead.

5 MS. ANIEL: Okay, with due respect, Your Honor, I am
6 tendering this excluded evidence --

7 THE COURT: What excluded evidence? Ask your
8 questions.

9 MS. ANIEL: The question that I asked already is part
10 of the evidence. I asked --

11 THE COURT: Ask another question.

12 MS. ANIEL: But I'm tendering that exhibit -- Exhibit
13 3.

14 THE COURT: Which exhibit?

15 MS. ANIEL: The deed of trust.

16 THE COURT: Okay. Exhibit 3 is the loan servicing
17 notes. You want Exhibit 3 in evidence? Exhibit 3 is in
18 evidence.

19 MS. ANIEL: No, I'm sorry, Exhibit 4 is the -- for
20 loan history of my loan history.

21 THE COURT: Exhibit 4.

22 MS. ANIEL: Oh, Exhibit 3, I'm sorry. Exhibit 3.

23 THE COURT: Exhibit 3 is in evidence.

24 (Loan servicing notes was hereby received into evidence as
25 Aniel's Exhibit 3, as of this date.)

1 THE COURT: Okay, I'm admitting it in evidence.

2 MS. ANIEL: Yeah, it's in evidence. But it's part of
3 my -- it's very important when it comes to my wrongful
4 foreclosure, Your Honor. The document says on the loan history
5 that it was fabricated and manufactured by GMAC in order for
6 them to satisfy the court-ordered bankruptcy, when I filed my
7 bankruptcy --

8 THE COURT: Don't make arguments. You wanted Exhibit
9 3 in evidence; it's in evidence.

10 MS. ANIEL: Yes, okay.

11 THE COURT: Ask your next question.

12 MS. ANIEL: Yes, thank you.

13 BY MS. ANIEL:

14 Q. Is MERS Mortgage Servicing --

15 THE COURT: It's not a servicer.

16 Q. -- it's Mortgage Electronic Servicing --

17 THE COURT: It's not a servicer.

18 MS. ANIEL: Okay, I have --

19 THE COURT: Tell her once more what MERS is.

20 THE WITNESS: MERS is --

21 MS. ANIEL: May I --

22 THE COURT: Stop.

23 THE WITNESS: Yes. MERS, short for Mortgage
24 Electronic Registration --

25 THE COURT: M-E-R-S.

1 THE WITNESS: -- Systems, Inc., is a registration
2 system which tracks a deed of trust or a mortgage, so that an
3 assignment does not need to be recorded in the county records
4 every time a deed of trust is sold or transferred.

5 Q. So in other words, what document has HSBC as trustee for
6 that house in 2007? You insist in 2007 that my note and my
7 deed of trust was entered -- was transferred to DALT in 2007.
8 Why is it that the deed of trust was just sitting around in
9 2009?

10 MR. WISHNEW: Judge --

11 Q. If you are saying that -- if you are saying that my loan
12 belongs to the trust in 2007, it was transferred in 2007, July
13 1st, why -- what kind of document the trust has?

14 MR. WISHNEW: Objection, Your Honor. Asked and
15 answered; relevance.

16 THE COURT: Can you answer the question.

17 A. I'm going to try to answer what I think you're asking me.
18 Your original deed of trust lists MERS as the original nominee
19 and has a MIN number associated with it. That original deed of
20 trust got recorded; it also gets registered in MERS. It will
21 stay in the registration system and it would -- MERS itself
22 would show a transfer in their system to whoever the new
23 beneficiary is, whoever that mortgage or deed of trust gets
24 sold to.

25 The reason you see a deed of trust out of MERS to HSBC two

1 years later, does not mean that it didn't stay -- that it
2 didn't move to HSBC in 2007. It's in the registration system
3 showing that it went to HSBC.

4 Q. But you -- but you stated a while ago that the original
5 deed of trust was sitting on the MERS. So what document can
6 you prove that my loan belongs to the trust in 2007? What
7 document the trust received in 2007 --

8 MR. WISHNEW: Obje --

9 Q. -- if the deed of trust was on MERS after two years? What
10 evidence you could prove that my loan belonged to the trust in
11 2007, and the fact of the matter, Your Honor, that's an
12 evidence --

13 THE COURT: Just ask questions. Don't argue. Ask
14 questions.

15 MS. ANIEL: Okay.

16 Q. Well, what happened? Why is it that the deed of trust,
17 original deed of trust was in MERS in 2009? Why is it that it
18 doesn't -- it doesn't go to the trust in 2007?

19 A. It --

20 MR. WISHNEW: Objection, Your Honor. Asked and
21 answered.

22 THE COURT: It was. Sustained. You covered this
23 already. You may not like what she's answered. She's answered
24 this multiple times. Okay?

25 Ask a new question.

1 Q. Is MERS a beneficiary of the trust DALT 2007-OA5?

2 A. If you -- do you want me to read from your deed of trust
3 what MERS is? I mean, if -- they are a nominee for the
4 beneficiary of the deed of trust.

5 Q. Let's go on the deed of -- let's go on Exhibit 2.

6 A. I don't have that binder. I only have the --

7 Q. It's also part of your exhibit.

8 THE COURT: Let me see what --

9 A. Which document is that?

10 THE COURT: Hold on. Let me look.

11 MR. WISHNEW: C as in cat, Your Honor.

12 THE COURT: Okay. So we're going to look at Exhibit
13 C -- Trust's Exhibit C, which is the same document as Ms.
14 Aniel's Exhibit 2.

15 THE WITNESS: Okay.

16 THE COURT: Okay? Do you see, Ms. Aniel?

17 MS. ANIEL: Okay.

18 Q. It says here that MERS -- page 2 of the deed of trust --

19 MS. ANIEL: Can I read it, Your Honor?

20 THE COURT: Yes, you can. Go ahead.

21 Q. Okay, it says here the trustee is Fidelity National Title.

22 And then part of this is (E), it says MERS is the Mortgage

23 Electronic Registration System, Inc. MERS is a separate

24 corporation that is acting solely as a nominee for lender and

25 lender's successors and assigns. MERS is the beneficiary under

1 this security instrument.

2 It says here MERS is organized and existing under the laws
3 of Delaware and has an address and telephone number, such as PO
4 Box 2026, Flint, Michigan, 48501-2026 and telephone number
5 is --

6 THE COURT: It's okay. You're reading from paragraph
7 (E) on page 2 of Exhibit C, correct? Is that right?

8 MS. ANIEL: Yes, Your Honor.

9 THE COURT: Okay. We can see that.

10 Q. Do you know who is the lender for this deed of trust?

11 A. The lender is listed on the first page under (C) as
12 Mortgage IT, Inc.

13 Q. So did you -- what do you think about a lender Mortgage
14 IT, is MERS the beneficiary of the Mortgage IT? Is that all
15 right?

16 A. As you just read in (E), MERS is acting solely as nominee
17 for the lender, which was Mortgage IT, and they're a
18 beneficiary under the deed of trust.

19 Q. Is MERS acting as beneficiary of the DALT 2007-OA5?

20 A. That -- I'm not sure that I understand that question.

21 THE COURT: I don't either.

22 Q. No, if MERS is beneficiary of the Mortgage IT, how could
23 MERS be a beneficiary of DALT 2007-OA5?

24 A. Because if you read the sentence before that, it says MERS
25 is acting as nominee for the lender and lender's successors and

1 assigns. HSBS is the successor to Mortgage IT. They were
2 assigned the deed of trust when they purchased it.

3 Q. But you just said that the deed of trust was --

4 THE COURT: No, no. Listen, you can ask questions.
5 You're not there to argue. Okay? Just ask questions. You get
6 to ask the questions once. I've told you that before.

7 I recognize you're not represented by a lawyer, and
8 I'm trying to give you reasonable leeway with your questioning.
9 Okay? I'm not going to permit you to get into arguments, to
10 make arguments. I'm going to permit you to ask questions.

11 MS. ANIEL: So Your Honor, I'm just limited for just
12 asking? I cannot dispute what she said based on the evidence?

13 THE COURT: You will have a chance to testify, if you
14 wish.

15 MS. ANIEL: Oh, okay.

16 THE COURT: For now, you are asking questions of the
17 witness that you called as a witness. All you can do now is
18 ask questions, not make arguments, not get into arguments.

19 Q. Okay, let's go to --

20 MS. ANIEL: Thank you, Your Honor.

21 Q. Let's go to Exhibit 3.

22 THE COURT: Do you have the --

23 THE WITNESS: I don't have that binder.

24 THE COURT: The loan history.

25 MS. ANIEL: That is the loan history.

1 THE COURT: Okay. Ms. Arett, could you bring the loan
2 history back up, if you would? Thank you. Thank you very
3 much.

4 THE WITNESS: Okay.

5 Q. Who is the owner of Aniel note and deed of trust?

6 THE COURT: At what point in time?

7 MS. ANIEL: Pardon me?

8 Q. In 20- --

9 THE COURT: At what point in time?

10 MS. ANIEL: At what point in time --

11 THE COURT: Yeah. You have to ask her -- you're
12 asking who owned the note. And I'm saying to you, you have to
13 be specific as to what point in time, because the
14 ownership -- the evidence has already established that the
15 ownership of the note changed. All I'm asking you to do is
16 tell her at what point in time you want to know who the owner
17 of the note was.

18 Q. So in 2009, who is the owner of Aniel note?

19 A. It's HSBC as trustee.

20 Q. In 2011 assignment of the deed that was signed by Mira
21 Smoot, who is the owner of Aniel note and deed of trust?

22 A. Owner of the loan has always remained HSBC after it was
23 securitized. GMAC Mortgage was the servicer. And yes, they
24 were assigned a beneficial -- assignment of the deed of trust
25 was assigned to GMAC Mortgage in 2011, solely to do a

1 bankruptcy or a foreclosure issue.

2 Q. So your answer, it's still HSBC in --

3 A. Yeah.

4 Q. -- 2011?

5 A. Yes.

6 Q. Is that correct? Okay.

7 So the loan history, Exhibit 3, my exhibit, okay, was
8 entered in April --

9 THE COURT: Exhibit 3 is --

10 MS. ANIEL: My exhibit, Your Honor, Exhibit 3.

11 THE COURT: Yes, what about -- what do you want to
12 point to in there?

13 Q. My question here is that there are three accounts related
14 to this loan history. And it says here the investor number is
15 42222 and the investor's full name is Wells Fargo Bank.

16 THE COURT: Where are you reading from?

17 MS. ANIEL: On the first page, Your Honor, first page
18 of the loan servicer.

19 THE COURT: Okay. Yes, go ahead. Ask your next
20 question.

21 MS. ANIEL: Did you see that, Your Honor?

22 THE COURT: I see it. Go ahead.

23 Q. So why is it now Wells Fargo became the owner of note?

24 A. They didn't. So the coding 4222 references the pooling
25 and servicing agreement for which HSBC is the trustee. If you

1 look at the pooling and servicing agreement, you'll see that
2 Wells Fargo was acting as master servicer under that deal.
3 That's why Wells Fargo is listed there.

4 Q. But it says here in this investor name, full name of the
5 investor is Wells Fargo Bank, National Association, as the
6 investor of the note and the deed of trust, as of date -- as of
7 this -- when you filed this in 2015 last year. And it was
8 updated as of March 5, 2014.

9 So since 2014, it's still showing it was Wells Fargo Bank
10 who is the investor?

11 A. You have to read both in conjunction with each other. The
12 way that the system is set up lists investor, really, who is
13 the master servicer for whatever securitization it is, because
14 GMAC Mortgage as the subservicer would submit payments to here,
15 Wells Fargo, who would submit them to the trustee of the trust.
16 This is just the way that the system reads it. You have to
17 read it in conjunction with the investor number.

18 THE COURT: The investor number is the 42222?

19 THE WITNESS: Yes.

20 THE COURT: And you're saying that was the investor
21 number for what?

22 THE WITNESS: That number links to the pooling and
23 servicing agreement for which the entire deal would list HSBC
24 as trustee and Wells Fargo as the master servicer.

25 THE COURT: Thank you.

1 Q. Can the master servicer become an investor of this trust?

2 A. They're not an -- they're not an investor in the
3 definition you're thinking of. They're listed here primarily
4 as the master servicer of the -- I'm sorry -- of the deal. I
5 can't tell you why the system is set up to say "investor" as
6 opposed to "master servicer".

7 Q. You said it's about the system of how you guys, you know,
8 do your duties. It's about the system. So it looks like the
9 system is not really accurate, based on the information that --

10 THE COURT: Ask questions, not make arguments.

11 Q. Is your system is flawed or accurate?

12 MR. WISHNEW: Objection, Your Honor.

13 THE COURT: Overruled.

14 A. No. I, as someone who works for the company, I am able to
15 read this and understand that the investor code and the
16 investor name together links me to the pooling and servicing
17 agreement.

18 Q. So who is the owner of my note and my deed of trust? It's
19 still the trust or it's Wells Fargo?

20 A. It's HSBC.

21 Q. HSBC? Okay.

22 And Wells Fargo also has his own loan number. Is that
23 right?

24 A. I don't -- if you're looking in this investor info area on
25 the front of the servicing notes, you have an investor number,

1 investor name, and right, there is an investor number there
2 that's associated with Wells Fargo as the master servicer,
3 who's going to receive the payments to transfer up to the
4 trustee.

5 Q. Is Wells Fargo has its own loan number and also GMAC has
6 its own number, am I correct, on this information --

7 A. It's an identifier. It's an account number. Yes.

8 Q. The identifier, what is difference between identifier
9 number as to the loan number?

10 A. I don't know. I mean, every company is going to identify
11 it differently. The fact is that you have one servicing loan
12 number, which was the GMAC Mortgage loan number, which would
13 have been all of the loan numbers for which you see
14 correspondence from the servicer.

15 Q. What kind of document the trust has when they -- when my
16 loan was transferred to the trust in 2007? What should receive
17 the trust as document?

18 THE COURT: I don't understand the question.

19 Q. What document the trust should supposed to receive on 2007
20 when my loan was transferred to the trust?

21 A. We became servicer. We were not a party to the
22 securitization of this loan. We are a subservicer only. So we
23 get information once the loan was securitized by Mortgage IT or
24 HSBC, and they give us the loan file and they give us, right,
25 the information about first payments, all of that stuff. But I

1 don't -- I'm not sure I understand what you're asking me that
2 they received. We weren't a party to the securitization
3 agreement.

4 Q. I understand, but you stated --

5 THE COURT: Can I just -- stop. This was not a
6 securitization trust that was sponsored by any of the debtors?

7 THE WITNESS: Correct.

8 Q. You stated before here that --

9 THE COURT: If she stated it before, she's stated it
10 before. Ask another question. You're not sticking to the four
11 issues that were identified and agreed upon as the issues for
12 this trial.

13 Q. Who created this assignment of the deed that was signed by
14 Mira Smoot? Let's go to Exhibit number --

15 THE COURT: This is Exhibit G.

16 A. Can you repeat your question?

17 Q. Who is -- who prepared --

18 THE COURT: Is that -- I just want to make sure.
19 You're talking about Exhibit G, correct?

20 MS. ANIEL: G, yeah. But I have to go -- I'm sorry.
21 Mira Smoot.

22 This is the assignment of the --

23 THE COURT: This is the 2011 assignment. This is the
24 one that's signed by Mira Smoot.

25 MS. ANIEL: Yes. My --

1 THE COURT: That's the one you're talking about?

2 MS. ANIEL: My exhibit, Your Honor, Exhibit 5.

3 THE COURT: Same document.

4 THE WITNESS: Okay.

5 Q. You have that, Kathy?

6 A. Yes.

7 Q. Okay. Who prepared this assignment of the deed of trust
8 in 2011?

9 A. It -- at the top of the assignment, it says "Requested and
10 prepared by ETS Services, LLC".

11 Q. So it was prepared by -- who prepared this document?

12 A. I am reading from it, and it says ETS.

13 Q. It was prepared by MERS?

14 A. No, it was -- am I looking at the 2011 assignment of deed
15 of trust, and it says "prepared by ETS Services."

16 Q. Well, then we have the wrong one.

17 THE COURT: That's the Smoot document.

18 MS. ANIEL: Oh, I'm sorry, Your Honor. I'm reading on
19 the 9 -- okay. I'll go --

20 THE COURT: Okay. Just let me advise you that you've
21 used three hours of your total of five hours. So you have two
22 hours remaining.

23 MS. ANIEL: Your Honor, we still have another day,
24 right?

25 THE COURT: But you have a total of five hours.

1 That's in the pre-trial order.

2 MS. ANIEL: Each?

3 THE COURT: Okay? You have five hours and the other
4 side has five hours. You've used three of your five hours
5 already. I'm just informing you of the time that you've used.
6 You have two more hours.

7 MS. ANIEL: Okay, Your Honor.

8 Q. Who prepared this 2011 assignment of the deed?

9 THE COURT: Which one are you talking about?

10 Q. The 2011 assignment of the deed. That's --

11 THE COURT: That's Exhibit G.

12 Q. -- Exhibit 5 on my --

13 THE COURT: Which is the same thing as -- Exhibit 5
14 and Exhibit G are the identical documents.

15 A. Yeah, so Exhibit G, the assignment of deed of trust from
16 February 2011 was prepared by ETS Services.

17 Q. So it was ETS who prepared this document. Am I right?

18 A. Yes.

19 Q. So how did Mira Smoot was able to sign this? What
20 happened? ETS is in California, and it was signed by Mira
21 Smoot in Pennsylvania, that was notarized in Pennsylvania. So
22 how did Mira Smoot was able to executed this assignment of deed
23 when the fact of the matter, it was ETS was who prepared this
24 document?

25 A. I can't speak to the exact process, but ETS would create

1 assignment and e-mail them electronically to whoever needed to
2 sign them.

3 Q. Why is it ETS didn't sign it? Because they are the one
4 that prepared it. They should know.

5 A. But ETS didn't have authority to sign for HSBC.

6 Q. But they have authority to prepare the document? Is that
7 what it says?

8 A. It's no different than a foreclosure firm preparing a
9 document and the person who has authority would sign it.

10 Q. Yeah, that's the -- the question is ETS is only authorized
11 to prepare an assignment of the deed in 2011. Is that a fact?

12 A. ETS is the substitute trustee for the loan. They can do
13 all kinds of activities related to the loan that they would be
14 requested to do. I'm not sure I am understanding your
15 question.

16 Q. Why is it Mira Smoot in Pennsylvania sign -- executed this
17 document in 2011?

18 MR. WISHNEW: Objection, asked and answered.

19 THE COURT: Many times. And you're also going to have
20 Ms. Smoot as a witness, so you can ask the question then.

21 Q. Do you know Mary Lynch?

22 A. Do I know who?

23 Q. Mary Lynch, L-Y-N-C-H?

24 A. No.

25 Q. Is she an employee of GMAC in Pennsylvania?

1 A. I don't know.

2 Q. I thought you're so familiar about this documentation that
3 you reviewed from the debtors' books. So I thought you're so
4 familiar with this. Why is it that you don't know Mary Lynch?

5 THE COURT: That's an improper question.

6 MS. ANIEL: Improper question. Okay.

7 THE COURT: That's an improper question.

8 MS. ANIEL: Because she said she reviewed and she --

9 THE COURT: Just --

10 MS. ANIEL: -- very familiar.

11 THE COURT: -- ask a question of the witness.

12 Q. Did Mortgage IT paid money to HSBC in order to get the
13 beneficial interest?

14 A. I wasn't a party to that transaction.

15 Q. You were not the party of this contract?

16 A. GMAC Mortgage was not a party to the sale between Mortgage
17 IT and HSBC.

18 Q. Are you here witnessing as a corporate witness or as a
19 personal individual witness?

20 A. I am testifying for the Liquidating Trust.

21 Q. For the Borrowers Trust?

22 A. Yes.

23 Q. Are you familiar with the assignment of the deed based on
24 the loan history that you submitted?

25 MR. WISHNEW: Objection, Your Honor. Which assignment

1 of deed are we talking about?

2 Q. The assignment of 2011.

3 MR. WISHNEW: Okay.

4 A. The 2011 assignment of deed of trust was in our books and
5 records.

6 Q. So are you sure this is effective in 2011?

7 A. As --

8 Q. Do you think this is effective? This is properly --

9 A. Yes, I have no reason to believe that it's not.

10 Q. How -- how do GMAC Mortgage Corporation in 2011 get that
11 beneficial interest from HSBC?

12 A. As part of the servicing agreement, because we are
13 subservicer for the deal, it is very typical for investors to
14 ask the subservicer to take action on their behalf in relation
15 to filing proofs of claim in the bankruptcy or starting a
16 foreclosure.

17 Q. So why is it that there's a need to execute that -- to
18 assign the deed in 2009 -- in 2009 and 2011? Is that necessary
19 to execute the assignment -- the two assignment deed of trust?

20 A. In order to follow the chain, yes, it was registered with
21 MERS. It needs to come out of MERS to whoever the trustee is.
22 And then at that point, the trustee can take action on its own
23 in its name or it can assign it to the subservicer to take
24 action for it.

25 MS. ANIEL: I have -- we have to go to the pre-

1 trial --

2 THE COURT: Ask questions.

3 Q. On the loan servicer -- on the loan history that you
4 provided, there was in 2011, there was a statement from the
5 loan service -- loan history -- of Aniel history that -- Aniel
6 history. It says here --

7 A. Which page are you looking at?

8 Q. Can you go to page 9 on pre-trial order?

9 A. I don't have that. Are you talking about the servicing
10 notes?

11 Q. Pre-trial order that we submitted to this Court.

12 MR. WISHNEW: Your Honor, can Ms. Aniel please refer
13 to the page within the servicing notes? I think she's
14 referring right now to a page --

15 THE COURT: Page 235?

16 MR. WISHNEW: -- within the pre-trial order

17 MS. ANIEL: Yeah, page 9.

18 THE COURT: She doesn't have the pre-trial order.
19 That's not evidence. This is in your contentions.

20 MS. ANIEL: Yeah, but, Your Honor --

21 THE COURT: You need to refer to evidence.

22 MS. ANIEL: But this is part of the exhibit; I just
23 quote it on my pre-trial statement. But --

24 THE COURT: That doesn't make it --

25 MS. ANIEL: -- this is --

1 THE COURT: -- an exhibit.

2 MS. ANIEL: No, that was in Exhibit 4, Your Honor, I
3 think, loan history. It's part of my exhibit.

4 THE COURT: It's Exhibit 3. Point to --

5 MS. ANIEL: 3.

6 THE COURT: -- something in Exhibit 3 that you want
7 her to look at.

8 MS. ANIEL: Oh. Okay.

9 Q. Can you go to page 230 of the loan servicer (sic)?

10 A. Okay.

11 (Pause)

12 Q. Can you go to transaction date September 9, 2009?

13 A. Okay.

14 Q. Can you read that?

15 A. You want me to read the -- all the entries here?

16 Q. Or you want me to read it?

17 MS. ANIEL: You allow me to read it, Your Honor?

18 THE COURT: Yes. Why don't you read the --

19 MS. ANIEL: Thank you.

20 THE COURT: -- the specific entry you want to cover.

21 Q. On September 9, 2009, it says here, "Please approve the
22 fee of one hundred dollars for the preparation and recordation
23 of the assignment." Did you hear that?

24 A. Yes.

25 Q. You did see that?

1 A. Yes.

2 Q. What does it mean to you?

3 A. It means that the assignment was being prepared and sent
4 out for execution.

5 Q. Who would prepare that assignment of deed of trust --

6 A. Do you want me to look back --

7 Q. -- in 2009?

8 A. I have to look back at the -- the -- the assignment.

9 The assignment of deed of trust from 2009, which is
10 Exhibit F, was prepared -- it looks like it would have been
11 prepared by Pite Duncan, LLP, which is a -- a law firm in
12 California.

13 Q. So it was not prepared by MERS, the 2009 assignment that
14 they did?

15 A. MERS doesn't prepare documents; they're only a
16 registration -- so they would never have prepared a document.

17 Q. But in 2009, assignment of the deed --

18 THE COURT: Okay --

19 Q. -- was signed by --

20 THE COURT: -- Ms. Aniel, you've now worn out my
21 patience. The questions you're asking now are not relevant to
22 the issues pending before the Court. I understand you're not a
23 lawyer and you may not have a full understanding of what these
24 documents are or what they do. I'm telling you right now
25 you're working against the clock, by which I mean that a total

1 of five hours was allocated to you to spend as you wish. You
2 still have not examined Ms. Smoot. You still have not
3 testified. Each of the activities that you do in this
4 courtroom are being timed. You were notified well in advance
5 that you had a total of five hours; you have to use it -- use
6 it as you wish, within the limits of what I permit. But you're
7 going to cut off your own chance to testify; you're going to
8 cut off your chance to examine Ms. Smoot. You're asking
9 questions of this witness that don't bear on the issues that
10 are pending before this trial.

11 Go on.

12 MS. ANIEL: Okay. I just want to establish her
13 credibility, Your Honor, that's all, because I have also the
14 right to examine her based on her answer.

15 THE COURT: Ask your next question.

16 Q. Do you know -- do you know Bradley -- Cager Bradley? Do
17 you know him?

18 A. No.

19 Q. Do you know Maricela Solano?

20 A. Are you looking at a document?

21 Q. No, I'm just asking you if --

22 A. Per --

23 Q. -- you know.

24 A. Personally? No.

25 Q. Okay. Who prepared this loan history? Who gave you this

1 loan history?

2 A. The loan history comes from the primary servicing system
3 that GMAC Mortgage used, which was called Fiserv or LoanServ.

4 Q. It came from where?

5 A. The servicing system.

6 Q. I don't understa -- I cannot understand. This top
7 category is --

8 A. The -- the -- the document that you have, which lays out
9 all of the servicing, no, it's -- it comes from a system of
10 record that kept notes of all transactions or correspondence
11 that happened on the account. So it is a system of record and
12 it will produce this type of history.

13 Q. Who managed that system of record? Who? I mean, the
14 system doesn't give you right away. What company is the system
15 of record -- handles this loan history?

16 A. The -- the system is called Fiserv or LoanServ. I don't
17 know the company behind it.

18 Q. Where did you get this? Because you filed -- the
19 Borrower's Trust filed this loan history in April '15. So
20 where did you get this?

21 THE COURT: May I ask you this?

22 THE WITNESS: Yes.

23 THE COURT: Was Fiserv a computer data system that was
24 maintained by GMAC?

25 THE WITNESS: Yes.

1 THE COURT: All right. And you still have access to
2 it?

3 THE WITNESS: We have access to it through Ocwen, yes.

4 THE COURT: Yes. Okay.

5 Q. So in other words, the Borrower's Trust accessed this
6 information that -- whoever provided this information. Is that
7 the third party that provided this information?

8 A. The -- the electronic system was one in which individual
9 employees at GMAC Mortgage could enter a note simultaneously
10 for whatever transaction was happening. So I'm not -- a third
11 party is not inputting the information in the system. It's
12 employees of GMAC Mortgage, as the servicer, who's entering the
13 information into the system.

14 Q. Okay. Do you believe this is very accurate information
15 that was put in the system?

16 A. Yes.

17 Q. Did you read all of this loan history?

18 A. Have I read 260 pages of the loan history?

19 Q. Yes.

20 A. In its entirety, no.

21 Q. Okay, let's go back to the first page of the loan history.
22 Do you think -- do you think Aniel loan still owe money on the
23 deed of trust and the note?

24 A. I can't answer that question. I don't service the loan.

25 Q. If I show you a document that's part of the exhibit?

1 A. I can't answer any question related to the status of the
2 loan after it was transferred to Ocwen in 2013.

3 Q. So you have no knowledge about it?

4 THE COURT: How many times does she have to tell you
5 that she has no knowledge of what's happened to your loan if
6 their servicing was transferred to Ocwen? Don't ask any more
7 questions about it. Let's go on and deal with the issues that
8 are relevant and material to the issues in this trial.

9 MS. ANIEL: But I would still have to -- you still
10 have considered this exhibit, Your Honor, the loan history.

11 THE COURT: To the extent it's relevant, I'll consider
12 it. It's in evidence.

13 MS. ANIEL: Okay.

14 THE COURT: Please ask your next question and deal
15 with the issues that are relevant and material to this trial.

16 Q. Do you know if this assignment of the deed could establish
17 the title of Aniel Property?

18 A. Could you repeat that?

19 THE COURT: I don't understand your question.

20 MS. ANIEL: Can I say something?

21 THE COURT: No, just tell me -- first off, there are
22 two assignments of deed of trust you've been referring to.
23 Which one and what is -- I don't understand your question.

24 Q. What -- can you explain why you needed this assignment of
25 the deed of trust to be recorded?

1 THE COURT: Which one?

2 Q. The 2011. It was already -- based on 2009, it was already
3 identified as the trustee as of 2009, right? So why is it
4 needed to have that 2011 assignment of the deed to be executed
5 and to be recorded again? What was the purpose for that?

6 A. It's -- so it's not recorded again; it's a different
7 assignment, assigning it to GMAC Mortgage. For whatever
8 reason, the trustee, HSBC, asked the servicer to take some
9 action on its behalf. It's not uncommon for a deed of trust to
10 be assigned to a servicer.

11 Q. There was notice of foreclosure in 2009; that's the reason
12 why the Aniel (sic) filed bankruptcy, because there was notice
13 of default.

14 MR. WISHNEW: Objection, Your Honor. Is there a
15 question?

16 THE COURT: I haven't heard one yet.

17 You have a question?

18 Q. Why is it that GMAC already started the foreclosure in
19 2009, February 2009? So why is it that it needed to be -- have
20 another assignment in 2011, assignment of the deed? GMAC
21 already started foreclosure process in 2009. Is it necessary
22 to still have those 2011 assignment of the deed?

23 A. I -- different jurisdictions, different time periods. I
24 can't tell you why they decided we need to pursue this in the
25 name of GMAC Mortgage as opposed to HSBC. Different investors

1 did it different ways. Different jurisdictions were different.

2 I can't tell you why.

3 Q. Okay. Did the trustee know that you are -- did the

4 trustee know that the loan of Aniel was in default?

5 A. Is it re -- you're asking if the trustee, HSBC, receives

6 information about defaulted loans in the trust?

7 Q. Yes.

8 A. I can't specifically answer that question. I am not sure

9 what kind of reporting they receive.

10 Q. We just answer yes or no, if you have --

11 THE COURT: She just answered your question.

12 Q. Did the trustee -- HSBC trustee knew that you are

13 foreclosing the property of Aniel?

14 A. I don't know what the trustee knew. It would have been

15 very typical for a subservicer to report up through the master

16 servicer statuses of loans in that pool, but I do -- I'm not at

17 all familiar with the process by which that happens.

18 Q. Is Mira Smoot familiar with that?

19 A. I don't know.

20 Q. Okay.

21 MS. ANIEL: Can we go to the loan history in 2011,

22 Your Honor?

23 THE COURT: Ask your questions. Point her -- it's a

24 big document. Point her where you want her to go.

25 Q. Can we go on page 9 again, please, Kathy, on the pre-trial

1 order?

2 THE COURT: Of the pre-trial order? That's not in
3 evidence. What is it -- and page 9 are your contentions; it's
4 not --

5 MS. ANIEL: Yeah, this -- my contention is that
6 page -- I'm just following because of the pages, Your Honor;
7 that's why -- this is just my guidelines. But it's in the
8 recor -- in the exhibit.

9 Q. Let's go to page 230 agai -- wait, wait. Let's go to page
10 148.

11 THE COURT: Okay, we're looking at Exhibit 3, page 148
12 of 262.

13 A. Okay.

14 Q. Okay. 148. Okay, let's go to transaction date that was
15 dated January 13, 2011.

16 A. Okay.

17 Q. Do you want me to read it or do you want --

18 THE COURT: It's a whole -- there're --

19 A. It's two pages --

20 THE COURT: -- multiple entries. Do you have a
21 specific entry you want to point to?

22 MS. ANIEL: Yeah, I think I want the whole date -- the
23 same date, Your Honor, but there's a lot activities at the
24 same --

25 THE COURT: The --

1 MS. ANIEL: -- the same date.

2 THE COURT: The same date goes on from page 147 to
3 page 150.

4 MS. ANIEL: 49 to 50. Yes. There is a lot of
5 activities.

6 THE COURT: I'm not going to let you -- you have a
7 specific question you want to ask?

8 MS. ANIEL: Yes, there was, Your Honor.

9 Q. And it says here that attorney-in-fact for the
10 signature --

11 THE COURT: Which page are you on?

12 MS. ANIEL: Page 148. It says -- this is from Bradley
13 Cager (sic); it says -- this is to Bradley Cager.

14 Q. It says -- the message says, "Good morning, Cager. Please
15 advise which document is the affidavit of the debt, with the
16 graveyards (ph.) regarding the power of attorney. Please
17 advise that the BDP (ph.) share is GMAC Mortgage, LLC and the
18 sub shows" -- which is the sub -- I believe, substitution
19 trustee -- "shows GMAC Mortgage, LLC, formerly known as GMAC
20 Mortgage Corporation, GMAC personnel. I only included an
21 assignment and a substitution as per the verbiage regarding the
22 power of attorney." This was dated January 13, 2011. It does
23 not mention Mira Smoot.

24 THE COURT: Do you have a question?

25 MS. ANIEL: Yeah.

1 Q. Why is it that Mira Smoot was never mentioned in this?

2 A. Because it wouldn't be typical for them to know who was
3 available to sign the assignment at the time the request is put
4 into the system. They're creating -- the instructions in here
5 say, "Create an assignment under the power of attorney," and
6 then it gets e-mailed to GMAC Mortgage. And depending on which
7 day it got there, who was available to sign, whoever was
8 available and had authority would have signed that. They
9 wouldn't have known that it was going to be Mira at the time.

10 Q. So, usually who did prepare the assignment of the deed in
11 this particular case?

12 A. The -- the 2011 assignment?

13 Q. Yes, yes, yes, yeah.

14 A. Was prepared by -- by ETS.

15 Q. Prepared by ATS (sic)?

16 A. Yes.

17 Q. So where did ETS get that information? From the system?

18 A. E -- where did they get the information about who to
19 re -- who to dra -- how to draft it?

20 Q. Yes.

21 A. So ETS acting as the substitute trustee would have had
22 information --

23 Q. Uh-huh.

24 A. -- in the servicing system related to who the trustee was.
25 They would have then asked GMAC Mortgage in whose name should

1 it be transferred to and, based on what GMAC Mortgage was
2 saying, that's how they would know how to draft it.

3 Q. So how --

4 MS. ANIEL: I will save this for Mira Smoot.

5 Q. Every time there is a default on the mortgage on this
6 particular trust, does the trustee knew (sic) -- did you notify
7 the trustee about the default -- you initiate the default? You
8 initiate the foreclosure? Do you -- does -- is that part of
9 your duties, to notify the trustee?

10 A. I don't know the answer to that question.

11 Q. Who -- do you know who notified the trustee that there was
12 a default on the trust that they are servicing?

13 A. I don't know what the process was for reporting up to the
14 trustee.

15 Q. I thought you are familiar about the books and records of
16 the debtors. And then you're now --

17 MR. WISHNEW: Objection, Your Honor, as to question
18 about the books and records --

19 THE COURT: Sustained.

20 Q. Why did you -- why did you -- why did you have to pay one
21 hundred dollars to create an assignment of the deed? Do you
22 need to pay just to pay the assignment of the deed?

23 A. Well, generally you have to pay for a vendor to create
24 something, and the recording cost of the document.

25 Q. Isn't it supposed -- the loan servicer duties, based on

1 the power of attorney that was signed by Susie Moy, that you
2 have to execute the assignment of the deed, the substitution of
3 trustee? Why is it now telling me that it was the trade
4 vendors that would do that, prepare that, that you have to pay?

5 THE COURT: All right, I'm sustaining my own objection
6 to the question; it's not relevant to the proceeding. Ask
7 another question or sit down.

8 MS. ANIEL: Your Honor, she is an adverse witness in
9 this case.

10 THE COURT: Ask questions that are relevant to this
11 proceeding. I've given you a lot of leeway.

12 MS. ANIEL: What is (sic) about my right, Your Honor,
13 to discredit these witnesses? We are trying to establish --

14 THE COURT: Okay --

15 MS. ANIEL: -- the credibility --

16 THE COURT: -- let me explain something to you. I
17 have control over what questions are asked in my courtroom.
18 While you have the right to examine witnesses and you're the
19 one who called this witness, I have the right to set limits on
20 what questions you can ask and to control the length of time
21 that you can examine the witness. I recognize you're not a
22 lawyer, and I've tried to allow you sufficient leeway,
23 recognizing that you're not a lawyer.

24 The pre-trial order -- the prior opinion of the Court
25 in the pre-trial order set the parameters for this evidentiary

1 hearing. While you're entitled to try and attack the
2 credibility of the witness, the Court concludes that your
3 questions that you're asking now do not do so; they're
4 irrelevant and are wasting time; happens to be your time. But
5 I'm quite concerned that when you run out of your five hours,
6 you will somehow say the Court has denied you an opportunity to
7 examine witnesses and to testify. But I set those limits;
8 those limits were in the pre-trial order. You signed the pre-
9 trial order. I intend to adhere to the time limits that are
10 there. Okay?

11 You will run out of time. I will limit what subjects
12 you can question about. And when you run out of time, you're
13 done. Okay? You were on notice of that before this proceeding
14 started. Okay? And I can set appropriate limits on what
15 proper cross-examination -- this is actually your witness
16 you've called, but I'm permitting you to question as an adverse
17 witness.

18 If you can't live within those constraints, I will
19 make you sit down and stop asking questions. I have told you
20 repeatedly today that you need to confine your questions to the
21 issues that remain in this case. I think this is the last time
22 that I'll warn you about it.

23 Do you have any more questions for this witness that
24 relate to the matter and issue before this Court? If so, go
25 ahead and ask them now.

1 MS. ANIEL: I think that's it, Your Honor.

2 THE COURT: Okay. All right, Mr. Wishnew, how do you
3 wish to proceed at this point? I would suggest -- then I'll
4 leave it to you -- go off of her direct testimony, which is in
5 written form and, if you have questions you want to ask, say
6 you wanted to repeat your examination, since Ms. Priore is up
7 there already. But I will -- if you wish to resolve your
8 question, you can do that, but --

9 MR. WISHNEW: I think my questions are more about just
10 getting documents into evidence, Your Honor. So --

11 THE COURT: Okay, go ahead.

12 MR. WISHNEW: Go ahead, Your Honor.

13 THE COURT: No, go ahead with what you were saying.

14 MR. WISHNEW: I was going to say I'll just -- while
15 Ms. Priore's on the stand, I'll just work through --

16 THE COURT: Let's go ahead and do that. Okay.

17 CROSS-EXAMINATION

18 BY MR. WISHNEW:

19 Q. Good afternoon, Ms. Priore.

20 A. Good afternoon.

21 Q. Okay. If I could ask you to open to the small binder in
22 front of you.

23 If you could look at Exhibit E.

24 A. Yes.

25 Q. And what is this document?

1 A. It is a substitution of trustee.

2 Q. Okay. And have you seen it before today?

3 A. Yes.

4 Q. And was this document recorded in the county records
5 office?

6 A. Yes, it was.

7 Q. And when was it recorded?

8 A. September 29th, 2008.

9 Q. To the best of your knowledge, does the Borrower Trust
10 have access to the original version of this document?

11 A. The Borrower Trust does not have access to the original.

12 Q. Do you know who maintains the originals?

13 A. Those would be with the current servicer or their
14 custodian.

15 Q. Okay. And who is that?

16 A. Ocwen.

17 Q. And did the Borrower Trust attempt to get original
18 versions from Ocwen?

19 A. Yes.

20 Q. And did the Borrower Trust make efforts to obtain
21 certified copies of the document recorded in the county
22 recorder's office?

23 A. Yes.

24 Q. Okay. Did the Borrower Trust, to your knowledge, obtain a
25 certified copy?

1 A. Yes, they did.

2 Q. And do you know when it was certified?

3 A. I don't have the -- is this the date on the bottom? March
4 2nd, 2016.

5 Q. Okay.

6 MR. WISHNEW: Your Honor, if I may approach. I can --

7 THE COURT: Okay.

8 MR. WISHNEW: I can show the Court a raised copy
9 of -- a raised certified copy. Exhibit E is a color copy of
10 what I have in my hands.

11 THE COURT: I see it. I don't need to see it --

12 MR. WISHNEW: Okay --

13 THE COURT: Go ahead.

14 MR. WISHNEW: -- show it to Ms. Aniel?

15 MS. ANIEL: What is it?

16 MR. WISHNEW: This is a certified copy, Exhibit E.

17 MS. ANIEL: Oh, the substitution of trustee.

18 MR. WISHNEW: Your Honor, I'd like to move Exhibit
19 into evidence.

20 THE COURT: Exhibit E's in evidence.

21 (Certified copy of substitution of trustee was hereby received
22 into evidence as Trust's Exhibit E, as of this date.)

23 MR. WISHNEW: Thank you.

24 Q. Ms. Priore, if you could turn to Exhibit F.

25 A. Okay.

1 Q. And what is this document?

2 A. This is an assignment of deed of trust from MERS to HSBC.

3 Q. Okay. Have you seen it before today?

4 A. Yes.

5 Q. And was this document recorded in the county records
6 office?

7 A. Yes, it was.

8 Q. And did the Borrower Trust have access to the original
9 version of this document?

10 A. We do not have access --

11 Q. Do you --

12 A. -- without going to Ocwen.

13 Q. Do you know who maintains the originals?

14 A. It's either Ocwen or their custodian.

15 Q. Okay. Do you know if the Borrower Trust attempted to get
16 original versions from Ocwen?

17 A. They did.

18 Q. Okay. And did the Borrower Trust make efforts to obtain
19 certified copies of the document from the county recorder's
20 office?

21 A. Yes.

22 Q. Okay. Do you know if they successfully obtained such a
23 certified copy?

24 A. They did.

25 MR. WISHNEW: Your Honor, in my hand I have the

1 original certified copy.

2 THE COURT: Yeah, I see the certification on the copy
3 in the binder.

4 MR. WISHNEW: Your Honor, I'd like to introduce
5 Exhibit F into evidence.

6 THE COURT: In evidence.
7 (Certified copy of assignment of deed of trust from MERS to
8 HSBC was hereby received into evidence as Trust's Exhibit F, as
9 of this date.)

10 Q. Ms. Priore, were the documents related to the Aniel loan
11 transfer to Ocwen when servicing the loan transferred to Ocwen
12 in 2013?

13 A. Yes, they were.

14 Q. Okay. And in connection with this matter, did you or
15 anyone with the Borrower Trust reach out to Ocwen to ask them
16 to locate any documents to support this objection of the
17 Borrower Trust?

18 A. Yes.

19 Q. And what document did you request?

20 A. I requested a copy of the limited power of attorney.

21 Q. Okay. If I could ask you to turn to Exhibit G.

22 A. Okay.

23 Q. And what is this document?

24 A. It is the assignment of deed of trust from HSBC to GMAC
25 Mortgage.

1 Q. Okay. And have you seen it before today?

2 A. Yes, I have.

3 Q. Okay. And was this document recorded in the county
4 records office?

5 A. Yes, it was.

6 Q. Okay. And does the Borrower Trust have access to the
7 original version of this document?

8 A. We do not have direct access.

9 Q. Do you know who maintains the originals?

10 A. Either Ocwen or their custodian.

11 Q. Okay. And do you know if the Borrower Trust attempts to
12 get original versions from Ocwen?

13 A. Yes.

14 Q. And was there also an attempt to get a certified copy --

15 A. Yes.

16 Q. -- from the county records office?

17 And do you know if they're successful in getting that
18 certified copy?

19 A. Yes, they were.

20 Q. Okay.

21 MR. WISHNEW: Your Honor, I have in my hand a
22 certified copy.

23 THE COURT: I see the certification.

24 MR. WISHNEW: I'm sorry, Your Honor?

25 THE COURT: I see the certification.

1 MR. WISHNEW: Thank you, Your Honor. Your Honor, I'd
2 like to introduce Exhibit G into evidence.

3 THE COURT: Exhibit G's in evidence.
4 (Certified copy of the assignment of deed of trust from HSBC to
5 GMAC Mortgage was hereby received into evidence as Trust's
6 Exhibit G, as of this date.)

7 MR. WISHNEW: Thank you.

8 Q. Ms. Priore, if you could look at Exhibit H. What is this
9 document?

10 A. This is a company profile for Mira Smoot.

11 Q. Okay. And have you seen it before today?

12 A. Yes, I have.

13 Q. And was this document kept in the ordinary course of GMAC
14 Mortgage's business?

15 A. Yes, it was.

16 Q. And do you know where in the records it was kept?

17 A. It was from the corporate secretary's office.

18 Q. Okay.

19 MR. WISHNEW: Your Honor, I'd like to introduce
20 Exhibit H into evidence.

21 THE COURT: Exhibit H is in evidence.
22 (Company profile for Mira Smoot was hereby received into
23 evidence as Trust's Exhibit H, as of this date.)

24 MR. WISHNEW: Thank you.

25 Q. If I could ask you to turn to Exhibit I, Ms. Priore. Do

1 you recognize this document?

2 A. Yes, I do.

3 Q. And what is this?

4 A. This is a substitution of trustee.

5 Q. Okay. And was this maintained in the debtors' books and
6 records?

7 A. Yes.

8 Q. Okay. And what -- do you know what -- I'm sorry. Was
9 there a specific system from which this document was retrieved?

10 A. It would have come from the imaging system called Looking
11 Glass.

12 Q. Okay. And do you know if this document was recorded in
13 the county records office?

14 A. It was.

15 MR. WISHNEW: Your Honor, I'd like to introduce
16 Exhibit I into evidence.

17 THE COURT: Exhibit I's in evidence.

18 (Substitution of trustee retrieved from Looking Glass imaging
19 system was hereby received into evidence as Trust's Exhibit I,
20 as of this date.)

21 Q. If you could turn to Exhibit J, Ms. Priore. Do you
22 recognize this document?

23 A. Yes.

24 Q. And what is this document?

25 A. It is a notice of default.

1 Q. And what is the date on the document?

2 A. The date of the document is April 21st, 2012.

3 Q. Okay. And was it recorded in the county records office?

4 A. Yes, it was.

5 Q. And was it maintained in the debtors' books and records?

6 A. Yes, it was.

7 Q. Do you know specifically in what electronic system it
8 would have been maintained?

9 A. It would have come from the same imaging system, called
10 Looking Glass.

11 Q. Okay.

12 MR. WISHNEW: Your Honor, I'd like to introduce
13 Exhibit J into evidence.

14 THE COURT: Exhibit J's in evidence.
15 (4/21/2012 notice of default retrieved from Looking Glass
16 imaging system was hereby received into evidence as Trust's
17 Exhibit J, as of this date.)

18 Q. Ms. Priore, if you could turn to Exhibit K. Do you
19 recognize this document?

20 A. Yes.

21 Q. And what is this document?

22 A. This is the notice of trustee sale.

23 Q. And do you know if this was recorded in the county records
24 office?

25 A. Yes, it was.

1 Q. And was this document maintained in the debtors' books and
2 records?

3 A. Yes, it was.

4 Q. In a specific electronic system?

5 A. Also from Looking Glass.

6 MR. WISHNEW: Your Honor, I'd like to introduce
7 Exhibit K into evidence.

8 Q. Mr. Priore --

9 THE COURT: Exhibit K is in evidence.
10 (Notice of trustee sale retrieved from Looking Glass imaging
11 system was hereby received into evidence as Trust's Exhibit K,
12 as of this date.)

13 MR. WISHNEW: Thank you, Your Honor.

14 Just one moment, Your Honor.

15 Your Honor, I have no further questions for
16 Ms. Priore.

17 THE COURT: Are you going to offer Exhibit D?

18 MR. WISHNEW: D.

19 THE COURT: I mean, it --

20 MR. WISHNEW: One moment, Your Honor.

21 THE COURT: -- that's what I heard all the testimony
22 from HSBC witnesses -- not HSBC -- yeah, HSBC witnesses.

23 MR. WISHNEW: Yeah, I would like -- yeah, I'd be happy
24 to move Exhibit D into evidence, Your Honor.

25 THE COURT: All right. I heard the foundation for it

1 this morning. Exhibit D is in evidence.

2 (2009 assignment of the deed of trust was hereby received into
3 evidence as Trust's Exhibit D, as of this date.)

4 MR. WISHNEW: Thank you, Your Honor.

5 THE COURT: Are you offering her direct testimony or
6 not?

7 MR. WISHNEW: I mean, she covered everything but, for
8 the sake of completeness --

9 THE COURT: It's up to you. Do what you want.

10 MR. WISHNEW: Your Honor, if I could move Exhibit A,
11 Ms. Priore's declaration, into evidence.

12 THE COURT: You believe everything in your declaration
13 is true?

14 THE WITNESS: Yes.

15 THE COURT: Okay, Exhibit A is in evidence.

16 (Declaration of Kathy Priore was hereby received into evidence
17 as Trust's Exhibit A, as of this date.)

18 MR. WISHNEW: And I believe B and C have been
19 stipulated to as part of the joint pre-trial order, Your Honor.

20 THE COURT: Okay. So Exhibit B and Exhibit C are in
21 evidence, pursuant to the stipulation in the pre-trial order.
22 (Trust's Exhibit B was hereby received into evidence, as of
23 this date.)

24 (Deed of Trust, recorded 6/8/2007 with original loan number
25 "40761137", was hereby received into evidence as Trust's

1 Exhibit C, as of this date.)

2 THE COURT: Any other questions?

3 MR. WISHNEW: While we're moving evidence in, I'd like
4 to also move Exhibit E based upon the testimony thus far.

5 THE COURT: I already admitted it a few minutes ago.

6 MR. WISHNEW: Oh. My apologies, Your Honor.

7 THE COURT: Didn't I?

8 THE CLERK: Yeah, you did.

9 THE COURT: Yeah.

10 MR. WISHNEW: Oh. My apologies.

11 THE COURT: Exhibit E -- that's all right. Just so
12 we're clear what the record is, and you ought to compare your
13 notes as well, okay, the documents that have been admitted into
14 evidence are the Aniel Exhibit 3, which is the loan history;
15 and then Trust Exhibits A, B, C, D, E, F, G, H, I, J and K have
16 all been admitted into evidence.

17 Okay. Any other questions? Okay.

18 MR. WISHNEW: No further questions for Ms. Priore.

19 THE COURT: Ms. Aniel, if you have questions that are
20 limited to what Mr. Wishnew asked about, you could do that, or
21 you could save your time for your other witnesses. But your
22 questions now have to be limited to what Mr. Wishnew covered.

23 MS. ANIEL: So is my question still limited from (sic)
24 what, when, where, how --

25 THE COURT: Only what Mr. Wishnew -- the way it works

1 is you called your witness; you had a full examination.
2 Mr. Wishnew asked about a very limited number of things. If
3 you have questions specifically about what he asked about, you
4 can follow up now. But you can't go through and sort of leap
5 out of the field that you did earlier or try for new questions.
6 Do you understand what I'm saying?

7 MS. ANIEL: Yes, Your Honor.

8 THE COURT: Okay. Do you have any other questions?

9 MS. ANIEL: No more.

10 THE COURT: Okay.

11 All right. You're excused Ms. Priore.

12 THE WITNESS: Thank you.

13 THE COURT: Thank you very much.

14 All right --

15 MS. ANIEL: I have Mira Smoot --

16 THE COURT: Yes.

17 MS. ANIEL: -- witness.

18 THE COURT: Let's get Ms. Smoot.

19 And since Ms. Priore has testified, she can stay in
20 the courtroom if she wishes.

21 MS. ANIEL: Can she just --

22 THE COURT: She can stay.

23 MS. ANIEL: She can stay?

24 THE COURT: She can stay. She's testified. After a
25 witness has testified, they're permitted to --

1 MS. ANIEL: Oh.

2 THE COURT: -- remain in the courtroom.

3 MS. ANIEL: I have a question. Can I not -- how do
4 you call -- contract -- question them about the -- how do you
5 call that? I forgot. Can I -- because the one that you want
6 me to do is just direct -- just any question, right?

7 THE COURT: You're calling Ms. Smoot as a witness.
8 You can take her -- you can ask questions that you want of
9 Ms. Smoot. She's com --

10 MS. ANIEL: Can I cross-examine --

11 THE COURT: She's going to come in --

12 MS. ANIEL: -- Mira Smoot?

13 THE COURT: Well, you're calling her as your witness,
14 so it's really a direct examination. But I'm permitting you to
15 ask leading questions. She's going to come in --

16 MS. ANIEL: Okay.

17 THE COURT: -- she's going to get sworn, you can ask
18 her your questions.

19 So that everybody is -- well, I'll wait for
20 Mr. Wishnew to come back in.

21 (Pause)

22 THE COURT: Ms. Smoot, why don't you come on up to the
23 witness stand, if you will. If you'd come up to the witness
24 stand up there and you'll be sworn and then you can have a
25 seat. You can get some water if you want.

1 THE CLERK: Please raise your right hand.

2 (Witness sworn)

3 THE COURT: All right, please have a seat. Why don't
4 you do this: why don't you give me your full name and where
5 you're employed.

6 THE WITNESS: Okay. Mira, middle name Bernice, Smoot.
7 I'm currently employed with Ocwen Financial Corporation --

8 THE COURT: Okay.

9 THE WITNESS: -- for --

10 THE COURT: And tell me what years you were employed
11 by GMAC.

12 THE WITNESS: I started with GMAC February of 1999, up
13 and through February 16th -- or 15, 2013 when --

14 THE COURT: When transferring --

15 THE WITNESS: Correct.

16 THE COURT: -- switched to Ocwen?

17 THE WITNESS: Over to Ocwen.

18 THE COURT: Okay.

19 All right, go ahead with your quest -- but just before
20 you begin, we're going to have to break for the day at twenty
21 after 3. If you haven't completed your examination, you'll
22 resume at 9 tomorrow morning. Okay? But go ahead.

23 DIRECT EXAMINATION

24 BY MS. ANIEL:

25 Q. Do I need to call you Mira or Smoot?

1 A. Mira --

2 Q. Oh, Mira.

3 A. -- is my first name. Yes.

4 Q. Thank you very much. Mira, we are here for you to testify
5 against particular documents --

6 A. Um-hum.

7 Q. -- that you executed; okay, that was the 2011 assignment
8 of the deed of trust recorded at the San Mateo County Recorders
9 in California. And the docket number is 2011-01-6800. And it
10 was notarized by a certain Mary Lynch, L-Y-N-C-H, at the state
11 of Pennsylvania.

12 THE COURT: If you have this thin binder, which you
13 do --

14 THE WITNESS: Okay.

15 THE COURT: -- if you would look at Exhibit G.

16 MS. ANIEL: Exhibit G.

17 THE COURT: Okay, that's what she's talking about,
18 okay?

19 That's the document you're talking about, Ms. Aniel?

20 MS. ANIEL: Yes, Your Honor.

21 THE COURT: Okay.

22 A. Okay. Yeah --

23 Q. Did you sign this document, Mira?

24 A. Yes; that's my signature.

25 Q. Can you give us a specimen, your signature?

1 THE COURT: Bring her up a piece of paper. She wants
2 to be able to compare your signature to what's on there, okay?

3 THE WITNESS: Have a pen?

4 THE COURT: Yeah. Kaitlin'll give you a pen -- loan
5 you a pen.

6 Okay. And so I'm going to mark this as Court Exhibit
7 3.

8 (Original signature specimen of Mira Smoot was hereby marked
9 for identification as Court's Exhibit 3, as of this date.)

10 THE COURT: If you want to --

11 Q. Do you have --

12 THE COURT: Do you want to look at it again?

13 MS. ANIEL: I'm okay.

14 THE COURT: Okay. Mr. --

15 MS. ANIEL: Oh, you want me to --

16 THE COURT: -- Wishnew, do you want to look at it?

17 MS. ANIEL: Oh, to -- yeah, yeah.

18 MR. WISHNEW: I'll --

19 THE COURT: Show it to Mr. Wishnew and then you'll
20 give it to my clerks; they're going to hold the exhibit
21 overnight, okay?

22 Okay. And if you'd just bring it up to my law clerks,
23 that would be great. Just watch your step over there.

24 Thank you.

25 Q. Are you an employed (sic) by GMAC? I understand you

1 started at GMAC in 1999, until the end of 2013 February.

2 THE COURT: No, till February 2013.

3 MS. ANIEL: Yes, 20 --

4 Q. And in 2011 you're still an employee of GMAC. Where is
5 GMAC located at that time, 2011?

6 A. Our offices were located at 1100 Virginia Drive in Fort
7 Washington, Pennsylvania.

8 Q. Okay. Are you still having your employment in that
9 building, with Ocwen?

10 A. Correct.

11 Q. Okay. Did you prepare this document?

12 A. No. We do not --

13 THE COURT: Could you tell me what your position was
14 in February 2011?

15 THE WITNESS: In February 2011, I was a default
16 specialist.

17 THE COURT: Okay.

18 Go ahead.

19 Q. In 2011?

20 A. In -- at the time that this document was signed, I was a
21 default specialist.

22 Q. What do you mean by "default services (sic)"?

23 THE COURT: No. Default --

24 A. Default --

25 THE COURT: -- specialist.

1 A. -- specialist.

2 Q. Default specialist.

3 A. Correct.

4 Q. What do you mean by that? What kind of duties a default
5 specialist --

6 A. I worked --

7 Q. -- would do?

8 A. -- within the foreclosure department, and there are
9 different teams within the foreclosure department. And I was
10 a -- my job title was a default specialist.

11 Q. What department was that foreclosure default (sic)
12 services -- department?

13 A. I worked within the foreclosure department and my job
14 title was default specialist.

15 Q. Okay, so you handled also default and foreclosure?

16 THE COURT: Tell me what your responsibilities
17 included.

18 THE WITNESS: My responsibilities at that time was to
19 review the documents put before us, for correctness and, you
20 know, actual facts, and verify those according to the note, the
21 mortgage, those items, before --

22 Q. Okay.

23 THE WITNESS: -- we executed and signed them.

24 Q. Do you know who prepared this 2011 assignment of the deed?

25 A. It would have been prepared by the foreclosure trustee,

1 Executive Trustee Services.

2 Q. Who?

3 A. Executive Trustee Services.

4 Q. Is that in California or in Washington --

5 A. They --

6 Q. -- State?

7 A. I do not recall where their actual offices were located,
8 but they have offices in different locations; I'm not exactly
9 sure where they were, but they were, I believe, in California,
10 out on the West Coast.

11 Q. Can you see that document? Because it says
12 that -- "requested and prepared by ATS (sic) Services, LLC",
13 which is located in Burbank, California, just to make
14 you -- easier for you to --

15 A. Correct. That would have been the office that prepared
16 the document.

17 Q. Do you know anybody in ETS?

18 A. I don't recall any of the people as of this time; I
19 haven't worked with them for quite some time.

20 Q. So if there is a foreclosure or default notices, it goes
21 first to the ATS -- ETS services in California where the
22 property's located?

23 A. They would handle any documents that was needed for the
24 foreclosure process and, if they needed anyone from GMAC to
25 execute any documents on behalf of them or the investor, then

1 they would submit those to GMAC.

2 Q. Okay.

3 THE COURT: How did they transmit the document to you?

4 You know?

5 THE WITNESS: We had a business application called
6 LPS. It was a business application called LPS.

7 THE COURT: So you would get it electronically?

8 THE WITNESS: Correct.

9 Q. So they would prepare this document, assignment of the
10 deed of trust?

11 A. Correct.

12 Q. And what happened after they prepared these documents?

13 A. It would come through our portfolio and the documents were
14 given up amongst the different team members. And our job is to
15 take that document and read through it and verify all the
16 information within the document, against the note, the
17 mortgage, whatever the recorded documents was, and also go
18 through the title search to verify the proper chain of
19 assignments.

20 Q. Do you understand the assignment of the deed of trust when
21 you sign it?

22 A. Yes.

23 Q. Okay, good. What is your understanding of that assignment
24 of deed in 2011?

25 A. What is my understanding of it?

1 Q. Yes, yes.

2 Q. My understanding of it was that I had to follow a proper
3 chain of title, which means from the mortgage originator, the
4 original beneficiary of the -- of the deed of trust, and take
5 that chain, make sure that the assignor had an assignment
6 recorded into their name, verify that assignment and then
7 execute this assignment into whoever the assignee was, which in
8 this instance was GMAC Mortgage, LLC.

9 Q. Does it mean selling the beneficial interest of HSBC to
10 GMAC?

11 A. It is to document a recorded lien interest.

12 Q. So, meaning that GMAC has a beneficial interest on the
13 assignment of the deed in 2011?

14 A. That's what this assignment was doing was giving them
15 beneficial interest.

16 Q. Okay. Is there money consideration?

17 A. Is there an amount?

18 Q. Money consideration.

19 A. That portion, I know it's customary for that language to
20 be in the documents. But we don't determine that amount.

21 Q. Um-hum. But you know what is for buyer receive, right?
22 You know that for buyer receive under assignment of the deed?

23 A. I do not know all of the terminologies. I just understand
24 that I have to verify the facts that was within, which was
25 mainly the recording information for the deed of trust.

1 Q. Where did you get that information? Okay, from ETS -- ETS
2 prepared these documents, right? For you as a spec -- default
3 specialist, would transmit it to you, right, and have it
4 signed? And you reviewed the document, right, as part of your
5 duties is to review the document?

6 A. Review these documents, the -- the documents within the
7 title search, and the note and the mortgage.

8 THE COURT: Tell me -- if you could, tell me what you
9 did after receiving this document from ETS to verify the
10 accuracy of the information contained in it.

11 THE WITNESS: First, all the documents must be
12 submitted as far as creating a supporting-document package. I
13 would view the deed of trust, look at this document here. I
14 see that title is coming from HSBC Bank USA; they were not the
15 original beneficial interest. So I looked for an assignor
16 before that, giving title to HSBC Bank. And that would have
17 been -- I'm not sure who the -- the other assignment was; think
18 it was from MERS to HSBC Bank. So I viewed that assignment,
19 made sure it was recorded, and then viewed this one, making
20 sure that the information was correct as far as the recording
21 information on the deed of trust, verified all of that
22 information, then made sure that we had signing authority to
23 execute the assignment.

24 THE COURT: How did you -- what'd you do to verify
25 that you had signing authority?

1 THE WITNESS: We had to check with Investor Operations
2 to see if we had a power of attorney. And we did have power of
3 attorney and looked at a copy of it, to view it, and saw that
4 this assignment -- or this deal was covered under that limited
5 power of attorney.

6 THE COURT: How did you do that?

7 THE WITNESS: By viewing the actual limited power of
8 attorney, and saw that the -- this particular trust and series
9 number was covered under that power of attorney on the
10 schedule, Exhibit A.

11 THE COURT: Okay. And you did all of those steps
12 yourself?

13 THE WITNESS: Yes.

14 THE COURT: Go ahead.

15 BY MS. ANIEL:

16 Q. I think the judge already asked you about how did you
17 determine which trusts the Aniel loan belongs. So -- he
18 already asked that, so --

19 A. Okay.

20 Q. -- you already answered it, okay?

21 Do you know Mary Lynch?

22 THE COURT: Wait, before we do that, look at Exhibit
23 D, D as in David, that's in evidence. This limited power of
24 attorney came into evidence before. Did you see a copy of
25 this?

1 THE WITNESS: Yes, the -- the original was in my
2 possession.

3 THE COURT: Okay. And is this the document that you
4 looked at to see whether GMAC had been given authority?

5 THE WITNESS: Yes.

6 THE COURT: Okay. And then -- so were you an
7 authorized signatory for GMAC?

8 THE WITNESS: For GMAC, who were the -- was appointed
9 the attorney-in-fact for --

10 THE COURT: Okay.

11 THE WITNESS: -- HSBC Bank.

12 THE COURT: All right.

13 Go ahead, Ms. Aniel.

14 Q. Okay, do you know Mary Lynch, L-Y-N-C-H? Do you know --

15 A. Yes. She was a co-worker and one of our notaries.

16 Q. Okay, do you work at the same department?

17 A. She's no longer with Ocwen; but for quite a few number of
18 years after that, yes.

19 Q. No, in two thousand -- I'm sorry -- in two --

20 A. In 2011, yes --

21 Q. -- thousand eleven, yes.

22 A. -- we worked within the foreclosure department as default
23 specialists.

24 Q. So you are with her at the same department?

25 A. Correct.

1 THE COURT: You mean the same location.

2 Q. Location.

3 A. Correct. Same office.

4 Q. In Pennsylv -- okay. When you signed this 2011
5 assignment of the deed, you reviewed it, and did you see any
6 wrong -- any defect of the 2009 --

7 A. No, I did not.

8 Q. -- assignment of the deed?

9 A. No, I did not.

10 Q. So you followed the protocols of GMAC's mortgage --

11 A. Correct.

12 Q. -- your company, how to -- were you trained how to detect
13 any inconsistency based on this assignment of the deed of 2011?

14 A. Yes.

15 Q. Okay. Do you know Janine Yamoah?

16 A. Yes.

17 THE COURT: Was she one of your co-workers?

18 THE WITNESS: She was a co-worker from the bankruptcy
19 department.

20 Q. From what department?

21 A. The bankruptcy department.

22 Q. Oh, so, you -- again, the bankruptcy department, and there
23 is also a foreclosure department right?

24 A. Correct.

25 Q. Okay.

1 THE COURT: Were you in the same office building?

2 THE WITNESS: Same office building.

3 Q. Building, yes. Okay.

4 After you signed this -- okay, I'll -- since Mary Lynch is
5 also a notary, an employee of GMAC -- am I right, Mira?

6 A. Correct.

7 Q. Okay. When you signed this assignment of the deed in
8 2011, did you sign it in front of Mary Lynch?

9 A. Yes.

10 Q. Did you bring it to her desk, sign it, or --

11 A. Yes.

12 Q. You did?

13 A. Yes. We had to be present in front of a notary.

14 Q. Do you know Jeffrey Stephan? Jeffrey Stephan, do you know
15 her (sic)?

16 THE COURT: Mr. Stephan has nothing to do with this
17 case.

18 MS. ANIEL: No, I was just asking --

19 THE COURT: Mr. Stephan has nothing to do with this
20 case. Ask your next question.

21 Q. Who is your supervisor, Mira?

22 MR. WISHNEW: At what point in time, Your Honor?

23 Q. Who is your supervisor?

24 THE COURT: When?

25 MS. ANIEL: No, who is her supervisor --

1 THE COURT: Now she doesn't work --

2 MS. ANIEL: -- 2011?

3 A. In 2011, my supervisor at the time was Lorraine Balera
4 (ph.).

5 Q. What's the name? Can --

6 A. Lorraine Balera.

7 Q. Lorraine Balera?

8 A. Yes.

9 Q. Does she has (sic) another name?

10 A. No.

11 Q. Is she Lorraine Brown?

12 A. Lorraine Balera was there at the time, and then there
13 was -- that was quite a long time ago. Can't remember all of
14 the different chains, 'cause we were going through a lot of
15 changes at that time.

16 Q. I understand that. Are you authorized to sign on behalf
17 of GMAC?

18 A. Yes. I was the GMAC officer.

19 Q. Do you have -- who appointed you to become an authorized
20 officer?

21 A. The board of directors signs off on anyone becoming an
22 officer of the company.

23 Q. When did you become an officer? What year?

24 A. I want to -- it was -- I believe it was 2010.

25 Q. What category as -- what is your category on (sic) 2010?

1 A. Was an authorized officer.

2 Q. Yes, yes. Uh-huh. Yes, what is your category as of --

3 A. I --

4 Q. -- 2010?

5 A. I believe our ultimate signing authority was Category III.

6 THE COURT: Look at Exhibit H in that binder, which
7 was from your individual profile; it's in evidence. And it
8 shows that from August 9th, 2010 to February 15th, 2013, you
9 were both a Category III and Category IV authorized officer.
10 Can you explain what those categories are?

11 THE WITNESS: I can only tell you that that's how they
12 came up with the categories, and our title that we just use on
13 a daily basis was "authorized officer".

14 THE COURT: Okay.

15 THE WITNESS: So I know that we had couple of
16 different sets, but the one that we used all the time was
17 authorized officer.

18 Q. How many of your authorized officer (sic) in that
19 department in Foreclosure?

20 A. I cannot recall.

21 Q. Cannot recall? So everyone in the foreclosure department
22 is authorized to sign on behalf of GMAC?

23 A. No. Only specific people. And there would be a master
24 list of those people.

25 Q. Why is it that there is Category III and Category IV?

1 A. I do not know.

2 Q. You don't know that description why you become III?

3 THE COURT: Ask your next question. She's answered
4 the question.

5 Q. Why did you sign -- why did you sign the assignment of the
6 deed of trust as authorized officer of HSBC? Are you an
7 office -- are you an authorized officer of HSBC in 2011?

8 A. No. I'm an officer -- authorized officer of GMAC Mortgage
9 in 2011, who was the attorney-in-fact for HSBC Bank.

10 Q. So you never authorized (sic) officer of HSBC?

11 A. No.

12 Q. Okay. What do you do -- what did you do today at Ocwen?

13 A. I'm a contract manager.

14 Q. Uh-huh. On what department?

15 A. I am -- that is the department: contract management.

16 Q. Okay. So the process of signing an assignment of the
17 deed, it came from ETS. Who is ETS? Is that a subsidiary of
18 GMAC?

19 A. I do -- cannot recall.

20 Q. Okay. Did you read the limited power of attorney? Did
21 you have this?

22 A. Did I read it -- did I read it through and through?

23 Q. Uh-huh.

24 A. I read the -- I had not read it through and through in a
25 very long time. On my --

1 THE COURT: It's Exhibit D.

2 THE WITNESS: It's Exhibit D?

3 THE COURT: D as in David. We already looked at that.

4 A. You want me to read this now?

5 Q. Oh, that's okay. That's okay, Mira. That's fine.

6 A. Okay.

7 Q. Okay, that's fine.

8 MS. ANIEL: I think that's enough, Your Honor.

9 THE COURT: Okay.

10 MS. ANIEL: Thank you very much.

11 THE COURT: Mr. Wishnew --

12 MS. ANIEL: Thank you --

13 THE COURT: -- you have any cross-examination?

14 MS. ANIEL: -- Mira. Thank you.

15 THE COURT: Thank you.

16 As for you?

17 MR. WISHNEW: Very limited, Your Honor.

18 THE COURT: Okay.

19 MR. WISHNEW: Your Honor, also just for the record, I
20 do have the original 2008 limited power of attorney.

21 THE COURT: Okay, show it to Ms. Aniel.

22 MS. ANIEL: Can I have time to examine this --

23 THE COURT: You can.

24 MS. ANIEL: -- Your Honor? Thank you.

25 THE COURT: You can.

1 Go ahead, Mr. Wishnew.

2 CROSS-EXAMINATION

3 BY MR. WISHNEW:

4 Q. Good afternoon, Ms. Smoot.

5 A. Hello.

6 Q. We were just talking about your role as authorized
7 officer. Can you briefly describe what your responsibilities
8 were and your role as an authorized officer of GMAC Mortgage?

9 A. Our role was to review any documents that were submitted
10 to us for execution --

11 Q. Um-hum.

12 A. -- and verify the -- the facts stated within the document
13 and making sure that we checked any supporting documentation to
14 make sure that there -- the document was error-free --

15 Q. Um-hum.

16 A. -- and truthful in its content.

17 Q. And who would submit those documents to you? Was it --

18 A. Whoever was the assigned default counsel or foreclosure
19 trustee.

20 Q. And what do you mean when you say the term "default
21 counsel"? What does that refer to? Or who does that refer to?

22 A. That refers to whomever GMAC would hire to facilitate the
23 foreclosure process.

24 Q. Okay. And typically on whose behalf were the foreclosures
25 conducted?

1 A. They were conducted, if it was wholly owned by GMAC,
2 by -- for GMAC; and if it was an investor or trustee, for those
3 entities.

4 Q. So like in this instance, it was for HSBC?

5 A. It was for HSBC Bank, correct.

6 Q. Did your job responsibilities including signing
7 assignments on behalf of investors of loans being serviced by
8 GMAC Mortgage?

9 A. Yes.

10 Q. Okay. If I could just turn -- we've gone through it a
11 couple times, but if you can just turn to Exhibit G, a 2011
12 assignment. Just to confirm, you do recognize this document?

13 A. Yes.

14 Q. And is that your signature on the document?

15 A. It is.

16 Q. Okay. If I could ask you to turn to Exhibit D as in
17 David. Have you seen this document before today?

18 A. Yes.

19 Q. And what is this document?

20 A. It is a limited power of attorney from HSBC Bank to GMAC
21 Mortgage.

22 Q. And is this document maintained at Ocwen's books and
23 records?

24 A. Yes, it is.

25 Q. Okay. And were you able to retrieve the original of this

1 document, for today's proceeding?

2 A. Yes, I was.

3 Q. Okay. And that's the document that I've shown to

4 Ms. Aniel?

5 A. Yes.

6 Q. Okay. And from where was the document retrieved?

7 A. It was retrieved from my desk drawer.

8 Q. Okay. And can you say whether this power of attorney
9 was -- did you review this power of attorney prior to executing
10 the 2011 assignment?

11 A. Yes.

12 Q. Okay. And just briefly, what was your understanding as to
13 the scope of authority granted to GMAC Mortgage by the limited
14 power of attorney?

15 A. My understanding of the limited power of attorney: that
16 it gave me authority to execute assignments of deed of trusts
17 and mortgages.

18 Q. Um-hum.

19 A. We had the authority to execute any deeds once a
20 foreclosure sale was completed --

21 Q. Um-hum.

22 A. -- and substitution of trustees.

23 Q. Okay. As part of your employment with Ocwen, do you have
24 records concerning loans that used to be serviced by GMAC
25 Mortgage?

1 A. I believe --

2 MR. WISHNEW: Let me --

3 THE WITNESS: Yes.

4 MR. WISHNEW: Let me strike that and rephrase.

5 THE WITNESS: Okay.

6 Q. If GMAC Mortgage serviced a loan, Ocwen acquired a
7 servicing on that loan, do you have access to records
8 concerning those loans previously serviced by GMAC Mortgage?

9 A. I would have to reach out to the investor operations
10 group.

11 Q. Okay. Did you happen to receive a request to obtain
12 original versions of three documents concerning this loan,
13 namely a 2008 substitute trustee, an assignment from August
14 2009, and an assignment from February 2011?

15 A. Correct.

16 Q. Okay. And did you attempt to locate those documents?

17 A. I did --

18 Q. And were you --

19 A. -- attempt to locate the -- the originals of those.

20 Q. And were you successful in obtaining the originals before
21 today?

22 A. No, I was not.

23 Q. And who did the request go to?

24 A. It went to a e-mail box for our bailey (ph.) team and our
25 vault teams.

1 Q. Okay.

2 A. And it took a while for them to provide a response as to
3 what steps I needed to take to make those requests for those
4 documents.

5 Q. Okay. Got it.

6 MR. WISHNEW: Your Honor, I have no further questions
7 for Ms. Smoot.

8 THE COURT: All right. You're excused.

9 THE WITNESS: Okay.

10 THE COURT: Thank you very much.

11 We're going to stand in recess. We're supposed to
12 be -- the only witness that remains --

13 MR. WISHNEW: Is Ms. Aniel.

14 THE COURT: -- is Ms. Aniel. And we're scheduled to
15 start at 9. We're going to start at 9:15. I have an 8:30
16 telephone hearing.

17 MS. ANIEL: Thank you for the time --

18 THE COURT: You're welcome to come into the courtroom
19 during it. But just -- it's supposed to be about a half hour,
20 but --

21 MR. WISHNEW: Okay.

22 THE COURT: -- let's just -- with one witness left,
23 we'll begin at 9:15.

24 MR. WISHNEW: Okay. May --

25 THE COURT: Okay?

1 MR. WISHNEW: May I ask Your Honor just how much time
2 Ms. Aniel has left at this point?

3 THE CLERK: An hour and two minutes.

4 THE COURT: An hour and what?

5 An hour and two minutes left.

6 MR. WISHNEW: Okay.

7 THE COURT: So we'll begin tomorrow, Ms. Aniel, with
8 your testimony.

9 MS. ANIEL: Yes, Your Honor.

10 THE COURT: And you have your written statement. I
11 raised the issue this morning about some of what's included in
12 the declaration I don't believe is relevant to this proceeding.
13 I don't know whether you want to -- whether you're going to
14 raise that in the morning or not.

15 MR. WISHNEW: Yeah, we'll raise it tomorrow.

16 THE COURT: Okay. But she'll have an hour to testify,
17 herself, from the witness stand, and --

18 MR. WISHNEW: Yeah.

19 THE COURT: -- but that hour's also, if you want to
20 make a closing statement, you'll have -- closing argument,
21 you -- that hour covers whatever testimony you give, not when
22 Mr. Wishnew questions you.

23 MS. ANIEL: Oh, okay. Now I understand.

24 THE COURT: Okay. His time is his time, okay?

25 MS. ANIEL: Okay, okay.

1 THE COURT: That doesn't count -- that doesn't count
2 against you when he's questioning you. Okay.

3 MS. ANIEL: Oh, okay, Your Honor.

4 THE COURT: All right?

5 I'll see you all in the morning.

6 MR. WISHNEW: One last point --

7 THE COURT: Yes.

8 MR. WISHNEW: -- Your Honor, just for housekeeping.

9 Can Ms. Smoot and Ms. Priore go back to their respective homes?

10 THE COURT: Yes; they're relieved.

11 MR. WISHNEW: Okay. Thank you very much.

12 MS. ANIEL: Thank you, Your Honor.

13 THE COURT: Okay.

14 MS. ANIEL: Your Honor, can I just get one more
15 question, because Mr. Jordan --

16 THE COURT: What's your question?

17 MS. ANIEL: -- gave me the original copy of the power
18 of attorney --

19 THE COURT: Yes.

20 MS. ANIEL: -- Your Honor.

21 THE COURT: Yes.

22 MS. ANIEL: This is not the -- this is not an original
23 copy, Your Honor, because if it's a original, it should
24 be -- have a mark at the back of the --

25 THE COURT: No. She's testified that she brought the

1 originals. Testimony's concluded for the day.

2 MS. ANIEL: Okay.

3 THE COURT: See you all in the morning.

4 MS. ANIEL: Thank you very much.

5 (Whereupon these proceedings were concluded at 3:18 PM)

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I N D E X

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EXHIBITS

COURT'S	DESCRIPTION	ID	Evid.
1	Signature specimen	46	
	of Doris Wong		
2	Signature specimen	59	
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3	Signature specimen	173	
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1	EXHIBITS (Contd.)			
2	ANIEL'S	DESCRIPTION	ID	Evid.
3	3	Loan servicing		124
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6	TRUST'S	DESCRIPTION	ID	Evid.
7	A	Declaration of		167
8		Kathy Priore		
9	B	(No description)		167
10	C	Deed of Trust		167
11		recorded 6/8/2007		
12	D	2009 assignment of		167
13		Deed of trust		
14	E	Certified copy of		159
15		substitution of trustee		
16	F	Certified copy of		161
17		Assignment of deed of		
18		trust from MERS to HSBC		
19	G	Certified copy of the		163
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22	H	Company profile for		163
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1	EXHIBITS (Contd.)			
2	TRUST'S	DESCRIPTION	ID	Evid.
3				
4	I	Substitution of trustee		164
5		retrieved from Looking		
6		Glass imaging system		
7	J	4/21/2012 notice of default		165
8		retrieved from Looking		
9		Glass imaging system		
10	K	Notice of trustee sale		166
11		retrieved from Looking		
12		Glass imaging system		

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C E R T I F I C A T I O N

I, Sharona Shapiro, certify that the foregoing transcript is a true and accurate record of the proceedings.

Sharona Shapiro

SHARONA SHAPIRO

AAERT Certified Electronic Transcriber CET**D 492

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Date: March 28, 2016